DISTRICT OF COLUMBIA CODE

ANNOTATED

1981 EDITION

1999 SUPPLEMENT

UPDATING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE, RELATING TO OR IN FORCE OR FINALLY ADOPTED IN THE DISTRICT OF COLUMBIA (EXCEPT SUCH LAWS AS ARE OF APPLICATION IN THE DISTRICT OF COLUMBIA BY REASON OF BEING GENERAL AND PERMANENT LAWS OF THE UNITED STATES), AS OF APRIL 27, 1999, NOTES TO EMERGENCY LEGISLATION ADOPTED AS OF MARCH 31, 1999, REORGANIZATION PLANS NOT DISAPPROVED AS OF DECEMBER 31, 1998, AND NOTES TO DECISIONS REPORTED AS OF MARCH 1, 1999

VOLUME 9

1996 REPLACEMENT

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TITLE 45. REAL PROPERTY.

Chapter 2. Estates in Land.

§ 45-216. Tenancies in common, tenancies by the entireties, and joint tenancies.

Estates by the entireties still exist in the District of Columbia in both personalty and realty.

In accord with bound volume. Finley v. Thomas, App. D.C., 691 A.2d 1163 (1997).

Proceeds of sale of real property owned by entirety. — Where a husband and wife make a normal, routine sale of real estate owned by entirety and do nothing to indicate a contrary intention, they continue to have the same title and estate in the proceeds of the sale that they had in the realty. Finley v. Thomas, App. D.C., 691 A.2d 1163 (1997).

Judgment creditor was not entitled to husband's share of proceeds of the sale of real estate held in tenancy by the entirety with his wife where the married couple did nothing to indicate that the proceeds of the sale would not continue in tenancy by the entireties. Finley v. Thomas, App. D.C., 691 A.2d 1163 (1997).

§ 45-220. Estates by sufferance.

Cited in Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-223. Provisions applicable to personal property.

Cited in Finley v. Thomas, App. D.C., 691 A.2d 1163 (1997).

Chapter 3. Conveyable Estates and Methods of Conveyance.

§ 45-301. Present or future and vested or contingent interests conveyed by deed or will.

Severance of joint tenancies. — This section and § 45-305 do not supersede the common law rule authorizing the unilateral severance of joint tenancies. Estate of Gulledge, App. D.C., 673 A.2d 1278 (1996).

§ 45-305. Title conveyable by anyone claiming such.

Severance of joint tenancies. — This section and § 45-301 do not supersede the common law rule authorizing the unilateral severance of joint tenancies. Estate of Gulledge, App. D.C., 673 A.2d 1278 (1996).

§ 45-306. Deed or will necessary for more than one-year term or for limitation upon such.

Equitable estoppel. — Under equitable estoppel, noncompliance with the statute of frauds does not prevent enforcement of an agreement where a party's own fraud is responsible for the noncompliance. District of Columbia Hous. Fin. Agency v. Harper, App. D.C., 707 A.2d 53 (1998).

CHAPTER 5. FORMS; COVENANTS AND WARRANTIES.

§ 45-501. Deed, mortgage, and lease forms.

Cited in Associates Fin. Servs. of Am. v. District of Columbia, App. D.C., 689 A.2d 1217 (1997).

CHAPTER 6. EXECUTIONS, ACKNOWLEDGMENTS, AND REVOCATIONS.

Subchapter I. General Provisions.

§ 45-601. No acknowledgment of deed by attorney.

Section references. — This section is referred to in §§ 21-2104, 45-801, and 45-801.3.

§ 45-605. Acknowledgments in Guam, Samoa, and Canal Zone.

Cited in District of Columbia v. Baylor, 125 WLR 1665 (Super. Ct. 1997).

CHAPTER 7. MORTGAGES AND DEEDS OF TRUST.

Sec.
45-718.1. Tracking addresses.
45-718.2. Procedures for release of deed of trust.

§ 45-701. Execution, acknowledgment, and recordation in same manner as deeds.

Cited in Wolf v. Sherman, App. D.C., 682 A.2d 194 (1996).

§ 45-715. Application to court to fix terms and determine notice of sale; notice under power of sale provision.

Actual notice not required. — Actual notice of a foreclosure sale is not required if the statutory requirements are adhered to. Young v. 1st Am. Fin. Servs., 992 F. Supp. 440 (D.D.C. 1998).

Action for wrongful foreclosure. — The appropriate avenue to assert a violation of this section is a claim of wrongful foreclosure, in which a party can attack a foreclosure — once it has been completed — as contrary to law. Young v. 1st Am. Fin. Servs., 992 F. Supp. 440 (D.D.C. 1998).

Cited in O'Malley v. Chevy Chase Bank, 125 WLR 1041 (Super. Ct. 1997).

§ 45-715.1. Right to cure residential mortgage foreclosure default.

Foreclosure notice defective but not void. — Trustee's sale was not void even though the debtor was not notified that he could cure his default and was not provided with a minimum amount required to reinstate his loan when the remedy of preventing foreclosure by tendering cure was not available at the time of the sale. O'Malley v. Chevy Chase Bank, 125 WLR 1041 (Super. Ct. 1997).

No right to cure after second default within two years. — If the debtor has prevented a foreclosure after the trustee has scheduled and advertised a sale, by tendering the cure amount, that remedy is unavailable to the debtor who again finds himself in default and facing a loss of his property through a trustee sale within a two-year period of the cure. O'Malley v. Chevy Chase Bank, 125 WLR 1041 (Super. Ct. 1997).

§ 45-717. Same — Amount creditor to pay if purchaser.

Water and sewer bill may constitute debt. — An unpaid water and sewer bill may be considered debt under the statute, and remand is appropriate to determine. Concord Enters., Inc. v. Binder, App. D.C., 710 A.2d 219 (1998).

§ 45-718.1. Tracking addresses.

Every deed of trust or substitution of trustee offered for recordation shall have the name and address of each party to the deed of trust or substitution of trustee typed or printed directly above or below the signature of the party. Deeds of trust or substitution of trustee submitted without both the name and address of each person will not be recorded. (March 3, 1901, 31 Stat. 1271, § 545a, as added Apr. 29, 1998, D.C. Law 12-86, § 701, 45 DCR 1172.)

Effect of amendments. — D.C. Law 12-86 added this section.

Legislative history of Law 12-86. — Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 45-718.2. Procedures for release of deed of trust.

(a) For purposes of this section, the term:

(1) "Ancillary security instrument" means an assignment of leases with respect to the real property described in a deed of trust, an assignment of rents from or arising out of the real property described in a deed of trust, a financing statement filed in the financing statement records in the Office of the Recorder

of Deeds of the District of Columbia with respect to fixtures on real property described in a deed of trust, and any other document or instrument that assigns, or creates a lien on, an interest in the real property described in a deed of trust as security for a promissory note.

(2) "Deed of trust" means a mortgage or a deed of trust encumbering real property located in the District of Columbia as the same may be modified, amended, supplemented, or restated.

(3) "Land records" means the land records in the Office of the Recorder of Deeds of the District of Columbia.

(4) "Promissory note" means a promissory note or other written evidence of indebtedness or obligation secured by a deed of trust.

(b)(1) Except as otherwise provided in paragraph (2) of this subsection, if (i) a deed of trust is not released as a lien on the real property described therein within a period of 12 years after the maturity date of the obligation secured by the deed of trust, or (ii) no determinable maturity date is recited in the deed of trust and 35 years have elapsed since the date of recordation of the deed of trust among the land records (or, if the deed of trust has been modified or extended, the last recorded modification or extension), then the promissory note secured by the deed of trust shall be deemed conclusively to have been paid and satisfied. The deed of trust shall, without any action on the part of the owner or other person having an interest in the real property described in the deed of trust, be deemed to have been automatically released as of the last day of the period referred to in clause (i) or (ii) of this paragraph, as the case may be, and the deed of trust shall no longer constitute a lien on, or be enforceable against, the real property described therein.

(2) Paragraph (1) of this subsection shall not apply if:

(A) A Notice of Foreclosure with respect to a deed of trust has been recorded among the land records within 60 days before the expiration of the applicable time period referred to in (i) or (ii) of paragraph (1) of this subsection, or (ii) as of the last day of the applicable time period referred to in clause (i) or (ii) of paragraph (1) of this subsection, a proceeding to enforce the lien of a deed of trust is pending in a court of competent jurisdiction.

(c) A deed of trust may be validly released as a lien on real property in the District of Columbia by any one of the following means:

(1)(A) A deed of trust securing a lost, misplaced or destroyed promissory note which has been fully paid and satisfied may be released as a lien on the real property described therein by recording an affidavit among the Land Records. The affidavit, which shall be executed by the holder of the lost, misplaced or destroyed promissory note, or by the trustee or trustees named in the original deed of trust or subsequently appointed by a recorded instrument of substitution, shall state that (i) the promissory note has been fully paid and satisfied, (ii) the original promissory note has been lost, misplaced, or destroyed and, if the affiant is the holder of the promissory note, neither the promissory note nor any interest therein has been transferred, assigned, or negotiated to any other person, (iii) the affiant has been unable to locate the promissory note despite a diligent search, and (iv) the affiant release the deed of trust identifiedby recording reference, as a lien on the real property described in the deed of trust.

(B) The affidavit shall fully identify the real property encumbered by, the parties to, the date of, and the recording reference for, the deed of trust

being released. The recordation of the affidavit shall be effective to release the deed of trust as a lien on the real property described therein with the same effect as a release recorded pursuant to paragraph (3) of this subsection.

(2)(A) A deed of trust may be released as a lien on the real property described therein by recording the original promissory note, marked "paid" or "canceled" on its face by the holder, among the land records with an attached affidavit executed by the holder, or by an officer of the title insurance company or validly licensed title insurance agent which disbursed funds in payment of the promissory note, stating that the promissory note has been fully paid or satisfied and releasing the deed of trust as a lien on the real property described in the deed of trust.

(B) The affidavit shall fully identify the real property encumbered by, the parties to, the date of, and the recording reference for, the deed of trust being released. The recordation of the original promissory note with the required affidavit attached shall be effective to release the deed of trust as a lien on the real property with the same effect as a release recorded pursuant to paragraph (3) of this subsection.

(3) A deed of trust may be released as a lien on the real property described therein by recording a certificate of satisfaction executed by the beneficiary, mortgagee, assignee, or trustee fully identifying the real property encumbered by, the parties to, the date of, and the recording reference for, the deed of trust being released, and stating that the deed of trust is released as a lien on the real property described therein, or, if the deed of trust is being released as a lien on less than all of the real property described therein, describing the part of the real property then being released.

(d) A certificate of satisfaction shall comply with the requirements of subsection (c)(3) of this section, shall be acknowledged in the manner required for the acknowledgement of a deed, and shall be in the following form:

CERTIFICATION OF SATISFACTION

KNOW ALL BY THESE PRESENTS:

That (name, title), representing (beneficiary), does hereby certify and acknowledge, under penalties of perjury, that the promissory note or other evidence of indebtedness secured by that certain mortgage/deed of trust made by _____ to _____, mortgage/trustee(s), dated _____ and recorded _____ as Instrument No. _____ among the Land Records of the District of Columbia, which encumbers the real property described in Exhibit A attached hereto, has been fully paid and satisfied and that _____ was, at the time of satisfaction, the holder of the promissory note or other evidence of indebtedness and that the lien of the said mortgage/deed of trust is hereby released.

The property encumbered by said mortgage/deed of trust is described as follows:

WITNESS the hand and seal of the party making this certification this _____ day of _____, _____.

_____

(ACKNOWLEDGMENT)

(e)(1) If a promissory note is paid or satisfied in full, the holder shall, within 30 days after receipt of such payment or within 30 days after such satisfaction, execute, acknowledge, and deliver, or cause to be executed, acknowledged and delivered, to the person making such payment or causing such promissory note to be satisfied, one or more of the documents, instruments and affidavits, in one of the forms permitted by subsection (c) of this section, sufficient to release the deed of trust securing such promissory note as a lien against the real property described in the deed of trust.

(2) If a promissory note is paid or satisfied in part, and if by the terms of the promissory note, the deed of trust securing the promissory note or a separate agreement between the parties, the person making such partial payment or causing such partial satisfaction to be made is entitled to a release of a part of the real property encumbered by the lien of the deed of trust, the holder of the promissory note shall comply with the provisions of subsection (c)(3) of this section in the same manner as if the promissory note were paid or satisfied in full, except that the release shall apply only to the part of the real property encumbered by the lien of the deed of trust which the holder is obligated, by the terms of the promissory note, the deed of trust or the separate agreement, to release on account of such partial payment or satisfaction.

(3) If a holder of a promissory note secured by a deed of trust fails to execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, the documents, instruments, or affidavits required to release the deed of trust, in whole or in part, within the time, and in the manner, required by paragraph (1) or (2) of this subsection, and if the holder's failure continues for more than 30 days after the holder receives a written request therefor from the person entitled to the release or such person's agent, then holder shall pay to the person entitled to the release a penalty in the amount of $50 per day, shall be liable to such person for all actual and consequential damages caused by the holder's failure timely to deliver or record the full or partial release, and shall pay or reimburse such person for all costs and expenses, including reasonable attorneys fees and disbursements, relating to or arising out of the enforcement of such person's rights under this section. The penalty of $50 per day shall be payable for the period beginning on and including the 31st day after the holder receives a written request for the release to, but not including, the day on which the holder delivers the executed and acknowledged documents, instruments or affidavits required to release the deed of trust.

(4) For purposes of this subsection, (i) a payment in the form of an electronic transfer of immediately available funds to an account in a commercial bank, a savings bank, a savings and loan association, a credit union or a similar financial institution shall be deemed to be made when the financial institution confirms receipt of the funds to the owners of the account, (ii) a payment in the form of a check issued or certified by a national or state bank shall be deemed to be made upon receipt of the check, and (iii) payment in the form of a check that is not issued or certified by a national or state bank shall

be deemed to be made on the first day on which the holder receives the proceeds of collection of such check in immediately available funds.

(f) If a deed of trust is released, or deemed released, as a lien on all of the real property described therein, the release of the deed of trust shall be deemed automatically to release any ancillary security instrument that secures the same promissory note secured by the deed of trust. This provision shall not apply if the document recorded among the land records expressly states that the release of the deed of trust shall not release the ancillary security instrument.

FORM OF RELEASE AFFIDAVIT
FOR LOST, MISPLACED, OR DESTROYED PROMISSORY NOTE PER
§ 45-721 (C)(1):

KNOW ALL MEN BY THESE PRESENTS:

THAT I, the undersigned, hereby certify under penalties of perjury that:

1. I was the last known holder of a certain promissory note (or the trustees named in the original deed of trust or substitute trustees appointed by an instrument of substitution recorded in the land records);

2. Despite diligent search, I have been unable to locate the original promissory note which has been lost, misplaced or destroyed, (if the holder add: and neither the promissory note nor any interest therein has been transferred, assigned or negotiated to any other person);

3. The promissory note has been fully paid and satisfied; and

4. The deed of trust dated (date) securing said promissory note granted by (grantor) in favor of (trustee(s)) securing (grantee) and recorded in the land records on (date) in Liber _____ , at Folio _____ , as instrument no. _____ and constituting a lien upon that piece or parcel of land located in the District of Columbia and known as:

LOT _____ in SQUARE _____ , (additional legal description, ex. subdivision) as per plat recorded in Liber _____ at Folio _____ among the land records is hereby RELEASED.

WITNESS the hand and seal of the undersigned [noteholder/trustee/substitute trustee] this _____ day of _____ , _____ .

_____

STATE/DISTRICT of _____)

) ss:

COUNTY of _____)

I, the undersigned, a Notary Public in and for the aforesaid do hereby certify that _____ party to and who is personally well known to me as the person who executed the foregoing Release Affidavit dated the _____ day of _____ , _____ , personally appeared before me in said jurisdiction and acknowledged the same to be his/her/its act and deed.

Given under my hand and seal, this _____ day of _____ , and:

My commission expires: _____

Notary Public

FORM OF RELEASE AFFIDAVIT
TO ACCOMPANY PROMISSORY NOTE § 45-721 (2):

KNOW ALL MEN BY THESE PRESENTS:

THAT I, the undersigned, hereby certify under penalties of perjury that:

1. I am [the last known holder of the attached promissory note marked ["Paid" or "canceled"] or [an officer of the undersigned title insurance company] or [a validly licensed title insurance agent] which disbursed funds in payment of the promissory note;

2. the attached promissory note has been fully paid, canceled or satisfied; and

3. the deed of trust dated (date) securing said promissory note granted by (grantor) in favor of (trustees) securing (grantee) and recorded in the Land Records on (date)in Liber _____ , at Folio _____ , as instrument no. _____ and constituting a lien upon that piece or parcel of land located in the District of Columbia and known as:

LOT _____ in SQUARE _____ , (additional legal description, ex. subdivision) as per plat recorded in Liber _____ at Folio _____ among the Land Records is hereby RELEASED.

WITNESS the hand and seal of the undersigned [noteholder/trustee/substitute trustee] this _____ day of _____ , _____ .

STATE/DISTRICT of _____)
) ss:
COUNTY of _____)

I, the undersigned, a Notary Public in and for the aforesaid do hereby certify that _____ party to and who is personally well known to me as the person who executed the foregoing Release Affidavit dated the _____ day of _____ , _____ , personally appeared before me in said jurisdiction and acknowledged the same to be his/her/its act and deed.

Given under my hand and seal, this _____ day of _____,
and:

My commission expires: _____

Notary Public.

(March 3, 1901, 31 Stat. 1271, § 545b, as added Apr. 29, 1998, D.C. Law 12-86, § 701, 45 DCR 1172.)

Effect of amendments. — D.C. Law 12-86 added this section.

Legislative history of Law 12-86. — See note to § 47-718.1.

CHAPTER 8. EFFECTIVE DATE AND RECORDATION OF DEEDS.

Sec.
45-801.4. Notice of address and name change.

§ 45-801.4. Notice of address and name change.

(a) All parties with an interest in a particular real property (including owners of the real property, mortgagees, secured parties under a deed of trust,

trustees, or lienholders) shall notify the Recorder of Deeds in writing in the event of a name change or address change. The notice shall identify the real property and specify the interest held in the property. A person to whom an interest in a particular real property has been transferred shall provide their full name and address when recording the interest.

(b) The Recorder of Deeds shall enter into its land records all updated information received according to subsection (a) of this section.

(c) The District shall assess a fee not to exceed $300 against an interested party if the District is unable to locate the interested party using all available information in the land records at the Office of the Recorder of Deeds or other information available at the Department of Finance and Revenue.

(d) The Mayor shall issue rules to implement this section. (Mar. 3, 1901, ch. 854, § 499d, as added Oct. 23, 1997, D.C. Law 12-34, § 2, 44 DCR 4827.)

Effect of amendments. — D.C. Law 12-34 added this section.

Legislative history of Law 12-34. — Law 12-34, the "Real Property Interests Reporting Improvement Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-177, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1997, and July 1, 1997, respectively. Signed by the Mayor on July 17, 1997, it was assigned Act No. 12-130 and transmitted to both Houses of Congress for its review. D.C. Law 12-34 became effective on October 23, 1997.

CHAPTER 9. RECORDER OF DEEDS.

Subchapter I. Appointment and Functions of Recorder.

Subchapter II. Recordation Tax on Deeds.

Subchapter I. Appointment and Functions of Recorder.

§ 45-907. Purchase of typewriting machines; preference for typewritten records.

Installation and operation of automated system. — Section 4 of D.C. Law 11-257 provides that upon installation and operation of an automated system, this section shall no longer apply.

Installation and operation of automated system. — Section 4 of D.C. Law 11-257 provides that upon installation and operation of an automated system [pursuant to § 45-911.1(b)], this section shall no longer apply.

§ 45-909.1. Surcharges.

(a) Notwithstanding any other provision of law, a surcharge of $5 per document shall be paid before any document is accepted for recordation at the Recorder of Deeds.

(b) In addition to the funds collected pursuant to subsection (a) of this section, the Recorder of Deeds may accept monetary and non-monetary donations.

(c) The $5 surcharge established pursuant to subsection (a) of this section shall remain in effect for a 5-year period beginning from April 12, 1997. (Mar. 3, 1901, 31 Stat. 1276, ch. 854, § 552a, as added Apr. 12, 1997, D.C. Law 11-257, § 2, 44 DCR 1247.)

Section references. — This section is referred to in § 45-911.1.

Effect of amendments. — D.C. Law 11-257 added this section.

Legislative history of Law 11-257. — Law 11-257, the "Recorder of Deeds Recordation Surcharge Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-670, which was referred to the Committee on the Whole. The Bill was adopted in first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-512 and transmitted to both Houses of Congress for its review. D.C. Law 11-257 became effective on April 12, 1997.

§ 45-911.1. Recorder of Deed Automation and Infrastructure Improvement Fund.

(a) Notwithstanding §§ 45-910 and 45-905, there is established in the Treasury of the District of Columbia a fund to be known as the Recorder of Deeds Automation and Infrastructure Improvement Fund ("Fund") into which shall be deposited all funds collected pursuant to § 45-909.1. The Recorder of Deeds Automation and Infrastructure Improvement Fund shall be a fund as defined in § 47-373. All interest earned on monies deposited in the Fund shall be credited to the Fund established herein and used solely for the purposes designated in this section. Revenues in the Fund shall remain available for expenditure without regard to fiscal year limitation.

(b) Revenues accruing to the Fund shall be used solely and exclusively to cover the costs of updating the automated system of the Recorder of Deeds and repair of the infrastructure of improvements located at 515 D Street, N.W., Washington, D.C. These costs shall include, but not be limited to, the purchasing of computer hardware and software, maintenance of the new computer system, training staff to implement and operate the new system, and the repair of the infrastructure components necessary to meet the overall mission of the Recorder of Deeds.

(c) For purposes of this section, the term "infrastructure components" means the air and heating systems, elevator, roof, ceilings, windows, doors, walls, plumbing, floors, basement, electrical system, mechanical systems, and other similar components that make up the improvements located at 515 D Street, N.W., Washington, D.C.

(d) The Mayor shall submit to the Council, as part of the annual budget, a requested appropriation for expenditures for the restricted purposes designated in subsection (b) of this section from the Fund. The request shall include an accounting of the use of funds from the Fund in the previous fiscal year. Appropriations from the Fund shall remain available until expended. Any revenue received, but not appropriated in a given fiscal year, shall be retained by the Fund.

(e) Nothing in this section shall be construed to prohibit or limit the appropriation of additional funds from the revenues of the District for the operations of the Recorder of Deeds, including appropriations to support the purposes specified in subsection (b) of this section. The revenues accruing to the Fund shall be considered as supplementing and enhancing the operations

of the Recorder of Deeds, and are not intended to be used to supplant support for the Recorder of Deeds provided through the general funds of the District. (Apr. 24, 1926, 44 Stat. 322, ch. 176, § 3, as added Apr. 12, 1997, D.C. Law 11-257, § 3, 44 DCR 1247; Apr. 20, 1999, D.C. Law 12-264, § 50, 46 DCR 2118.)

Effect of amendments. — D.C. Law 11-257 added this section.

D.C. Law 12-264 validated a previously made technical correction in (c).

Legislative history of Law 11-257. — See note to § 45-909.1.

Legislative history of Law 12-264. — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective April 20, 1999.

Subchapter II. Recordation Tax on Deeds.

§ 45-922. Deeds exempt from tax.

The following deeds shall be exempt from the tax imposed by this subchapter:

* * * * *

(23) A deed for the improvements known as the District of Columbia Correctional Treatment Facility, located on a portion of Lot 800 of Square 1112E, with a street address of 1901 E Street, S.E. (Mar. 2, 1962, 76 Stat. 11, Pub. L. 87-408, title III, § 302; 1973 Ed., § 45-722; June 24, 1980, D.C. Law 3-72, § 206, 27 DCR 2155; Sept. 13, 1980, D.C. Law 3-92, § 101(b), 27 DCR 3390; Mar. 10, 1982, D.C. Law 4-72, § 3(b), 28 DCR 5273; Oct. 8, 1983, D.C. Law 5-31, § 10(b), 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 5, 36 DCR 457; Sept. 9, 1989, D.C. Law 8-20, § 2(b), 36 DCR 4564; Mar. 7, 1992, D.C. Law 9-56, § 3, 38 DCR 7281; June 11, 1992, D.C. Law 9-120, § 4(a), 39 DCR 3195; June 14, 1994, D.C. Law 10-128, § 101(b), 41 DCR 2096; Sept. 8, 1995, D.C. Law 11-38, § 4(b), 42 DCR 3269; June 3, 1997, D.C. Law 11-276, § 7(a), 44 DCR 1416.)

Effect of amendments.

D.C. Law 11-276 added (23).

Emergency act amendments. — For temporary amendment of section, see § 7(a) of the Correctional Treatment Facility Emergency Act of 1996 (D.C. Act 11-457, December 13, 1996, 44 DCR 156), and § 7(a) of the Correctional Treatment Facility Congressional Review Emergency Act of 1997 (D.C. Act 12-32, March 11, 1997, 44 DCR 1908).

Legislative history of Law 11-276. — Law 11-276, the "Correction Treatment Facility Act of 1996," was introduced in Council and assigned Bill No. 11-908, which was referred to the Committee on the Judiciary and the Committee of the Whole. The Bill was adopted on first and second readings on December 3, 1996, and December 17, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-523 and transmitted to both Houses of Congress for its review. D.C. Law 11-276 became effective on June 3, 1997.

§ 45-923. Imposition of tax; rate; return; contents; liability for tax; extension of period for filing, and waiver of, return.

(a)(1) At the time it is submitted for recordation, a deed that conveys title to real property in the District shall be taxed at a rate of 1.1% of the total consideration for the deed.

(2) At the time it is submitted for recordation, a deed that evidences a transfer of an economic interest in real property shall be taxed at the rate of 2.2% of the total consideration allocable to the real property.

* * * * *

(b) Each such deed shall be accompanied by a return under oath in such form as the Mayor may prescribe, executed by all the parties to the deed, setting forth the consideration for the deed or debt secured by the deed, the amount of tax payable, whether the property to which the deed or document refers is a residential real property as defined in § 47-1401, the instrument number and date of any prior recorded supplemental deed, and such other information as the Mayor may require so as to provide an accurate and complete public record of each transfer of residential real property.

* * * * *

(June 14, 1994, D.C. Law 10-128, § 101(e), 41 DCR 2096; Apr. 9, 1997, D.C. Law 11-198, § 101, 43 DCR 4569; Apr. 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271.)

Effect of amendments.

D.C. Law 11-198 substituted "higher of the assessed value or the sales price" for "total consideration" in (a)(1) and (2); and substituted "assessed value and the sales price" for "consideration" in (b).

Section 59 of D.C. Law 11-255 repealed §§ 101, 102, 103(a) and 106 of D.C. Law 11-198.

This section is set out above with the language changed by D.C. Law 11-198 restored to read as it did prior to that amendment.

Temporary amendment of section. — Section 2(a) of D.C. Law 12-4 repealed § 101 of D.C. Law 11-198 which had previously amended this section.

Section 4(b) of D.C. Law 12-4 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary repeal of § 101 of D.C. Law 11-198, see § 2 of the Recordation and Transfer Tax Clarification Emergency Amendment Act of 1996 (D.C. Act 11-402, October 24, 1996, 43 DCR 5806), and see § 2(a) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

For temporary amendment of section, see § 101 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

Section 1001 of D.C. Act 11-302 provides for the application of the act.

For temporary repeal of § 101 of D.C. Act 11-302, see § 3 of the Recordation and Transfer Tax Clarification Emergency Amendment Act of 1996 (D.C. Act 11-402, October 24, 1996, 43 DCR 5806).

Legislative history of Law 11-198. — Law 11-198, the "Fiscal Year 1997 Budget Support Act of 1996," was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective April 9, 1997.

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to

both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 12-4. — Law 12-4, the "Fiscal Year 1997 Budget Support Temporary Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-103. The Bill was adopted on first and second readings on February 18, 1997, and March 4, 1997, respectively. Signed by the Mayor on March 19, 1997, it was assigned Act No. 12-45 and transmitted to both Houses of Congress for its review. D.C. Law 12-4 became effective on May 23, 1997.

Application of Law 11-198. — Section 1001 of D.C. Law 11-198 provides that Titles I, II, III, V, and VI and sections 405 and 406 of the act shall apply after September 30, 1996.

CHAPTER 9A. RESIDENTIAL REAL PROPERTY SELLER DISCLOSURES.

§ 45-951. Applicability and exceptions.

(a)(1) The provisions of this chapter shall apply only to the transfer or sale of real estate located in the District of Columbia consisting of not less than one nor more than 4 residential dwelling units, whether by sale, exchange, installment land contract, lease with an option to purchase, or any other option to purchase.

(2) This chapter shall apply only where the purchaser expresses, in writing, an intent to reside in the property to be transferred.

(b) The provisions of this chapter shall not apply to any of the following:

(1) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance;

(2) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, or transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default;

(3) Transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure;

(4) Transfers by a nonoccupant fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust;

(5) Transfers from one cotenant to one or more other co-tenants;

(6) Transfers made to the transferor's spouse, parent, grandparent, child, grandchild or sibling or any combination of the foregoing;

(7) Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance or from a property settlement agreement incidental to such a judgment;

(8) Transfers or exchanges to or from any governmental entity; and

(9) Transfers made by a person of newly constructed residential property that has not been inhabited. (Apr. 20, 1999, D.C. Law 12-263, § 2, 46 DCR 2111.)

Legislative history of Law 12-263. — Law 12-263, the "Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998," was introduced in Council and assigned Bill No. 12-648, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first, amended first and second readings on October 6 1998, November 10, 1998, and December 1, 1998, respectively. Bill 12-648 was vetoed by the Mayor on December 29, 1998, and the Council overrode the veto on January 5, 1999, whereupon the Bill was assigned Act No. 12-625 and transmitted to both Houses of Congress for its review. D.C. Law 12-263 became effective on April 20, 1999.

§ 45-952. Written statement; written indication of compliance.

(a) The transferor of any real property described in § 45-951(a) shall deliver to the prospective transferee a real property disclosure statement on a form to be approved by the Mayor. The written statement shall be signed by the transferor and shall be delivered to the prospective transferee within the following time limits:

(1) In the case of a sale, before or at the time the prospective transferee executes a purchase agreement with the transferor; or

(2) In the case of a sale by an installment sales contract where a binding purchase agreement has not been executed, or in the case of a lease together with an option to purchase, before or at the time the prospective transferee executes the installment sales contract, or lease, as the case may be, with the transferor.

(b) With respect to any transfer subject to subsection (a) of this section, the transferor shall indicate compliance with this chapter either on the purchase agreement, the installment sales contract, the lease with an option to purchase, or any addendum attached to the purchase agreement, contract, or lease with an option to purchase, or on a separate document.

(c) Except as provided in subsection (d) of this section, if any disclosure required to be made by this chapter is delivered after the prospective transferee executes a purchase agreement, installment sales contract, or lease with an option to purchase, the prospective transferee may terminate any of the foregoing by delivering written notice of termination to the transferor not later than 5 calendar days after receipt of the disclosure statement by the prospective transferee, and any deposits made by the transferee to the transferor shall be promptly returned to the transferee.

(d) Notwithstanding the provisions of subsection (c) of this section, the right of a transferee to terminate is waived if not exercised before the earliest of:

(1) The making of a written application to a lender for a mortgage loan or financing, provided that the lender discloses in writing at or before the time application is made that the right to rescind terminates on submission of the application;

(2) Settlement or the date of occupancy by the purchaser in the event of a sale; or

(3) Occupancy in the event of a lease with option to purchase. (Apr. 20, 1999, D.C. Law 12-263, § 3, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-953. Scope of liability; information prepared by third party.

(a) The transferor is not liable for any error, inaccuracy, or omission in any information delivered pursuant to this chapter if the error, inaccuracy, or omission was not within the actual personal knowledge of the transferor, or was based entirely on information provided by public agencies or provided by other persons specified in subsection (c) of this section and ordinary care was exercised in transmitting the information. It is not a violation of this chapter if the transferor fails to disclose information that could be obtained only through inspection or observation of inaccessible portions of real estate or could be discovered only by a person with expertise in a science or trade beyond the knowledge of the transferor.

(b) The delivery to a prospective transferee of any information required by this chapter to be disclosed to a prospective transferee by a public agency or other person specified in subsection (c) of this section shall be considered to comply with the requirements of this chapter and relieves the transferor of any further duty or liability under this chapter with respect to that item of information, unless the transferor has actual personal knowledge of a known defect or condition that contradicts the information provided by the public agency or the person specified in subsection (c) of this section and knowingly fails to disclose such known defect or condition.

(c) The delivery to a prospective transferee of a report or opinion prepared by a licensed professional engineer, professional surveyor, home inspector, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, is sufficient compliance for application of the exemption provided in subsection (a) of this section if the information is provided upon the request of the prospective transferee (provided that nothing in this chapter shall be construed as imposing on the transferor any obligation to comply with the request), unless the transferor has actual personal knowledge of a known defect or condition that contradicts the information contained in the report or opinion and knowingly fails to disclose the known defect or condition. In responding to a request by a prospective transferee, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of § 45-955 and, if so, shall indicate the required disclosures, or parts of disclosures, to which the information being furnished applies. In furnishing the statement, the expert is not responsible for any items of information other than those expressly set forth in the statement. (Apr. 20, 1999, D.C. Law 12-263, § 4, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-954. Change in conditions after delivery.

If information disclosed in accordance with this chapter becomes inaccurate as a result of any action, occurrence, or agreement after the delivery of the required disclosures, the resulting inaccuracy does not constitute a violation of this chapter. If at the time the disclosures are required to be made, an item of information required to be disclosed under this chapter is unknown or unavailable to the transferor, the transferor may comply with this chapter by advising a prospective purchaser of the fact that the information is unknown. The information provided to a prospective purchaser pursuant to this chapter shall be based upon the information available and actually known to the transferor. (Apr. 20, 1999, D.C. Law 12-263, § 5, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-955. Residential disclosure requirements.

The residential real property disclosure statement approved by the Mayor shall contain the following:

(1) A list of actually known defects or information concerning the following:

(A) Water and sewer systems;

(B) Insulation;

(C) Structural systems, including roof, walls, floors, foundation, and basement;

(D) Plumbing, electrical, heating, and air conditioning systems;

(E) History of infestation by rodents or wood-boring insects, if any;

(F) Appliances;

(G) Alarm system and intercom system; and

(H) Garage door opener and remote control; and

(I) Fixtures; and

(2) Any other information required by the Mayor to be published by rulemaking, provided that nothing in this chapter or in any rules shall be deemed to modify or amend § 45-1936(f). (Apr. 20, 1999, D.C. Law 12-263, § 6, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-956. Good faith disclosure.

Each disclosure required by this chapter shall be made in good faith. For the purposes of this chapter, "good faith" means honesty in fact in the making of the disclosure. (Apr. 20, 1999, D.C. Law 12-263, § 7, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-957. Scope of disclosure.

The specification of items for disclosure in this chapter does not limit or abridge any obligation for disclosure created by any other provision of statutory law regarding fraud, misrepresentation, or deceit in transfer transactions. If the transferor provides to the prospective transferee the residential real property disclosure statement required by this chapter (or the other information described in § 45-953(b) or (c)), any licensed agent of the transferor shall be deemed to have complied with the licensee's obligations under § 45-1934.1 to disclose to a customer material adverse facts concerning the physical condition of the property. (Apr. 20, 1999, D.C. Law 12-263, § 8, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-958. Amendment of disclosure.

Any disclosure made pursuant to this chapter may be amended in writing by the transferor, but the amendment is subject to the requirements of § 45-952. (Apr. 20, 1999, D.C. Law 12-263, § 9, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-959. Method of delivery.

Delivery of a disclosure statement required by this chapter shall be by personal delivery, facsimile delivery, or by registered mail to the prospective transferee. Execution by the transferor of a facsimile counterpart of the disclosure statement shall be considered to be execution of the original. (Apr. 20, 1999, D.C. Law 12-263, § 10, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-960. Failure to comply.

A transfer subject to this chapter shall not be invalidated solely because of the failure of any person to comply with any provisions of this chapter. (Apr. 20, 1999, D.C. Law 12-263, § 11, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

§ 45-961. Duty imposed on transferor only.

The duty to comply with this chapter is imposed on a transferor, and not on any real estate agent or real estate broker of a transferor. A real estate agent or real estate broker of a transferor shall not be liable for any error, inaccuracy or omission in any information delivered to any prospective transferee, or for any failure of a transferor to deliver any information or a real property disclosure statement to the prospective transferee, or for any violation of this chapter by a transferor, unless such real estate agent or real estate broker

knowingly acts in concert with such transferor to commit fraud. (Apr. 20, 1999, D.C. Law 12-263, § 12, 46 DCR 2111.)

Legislative history of Law 12-263. — See note to § 45-951.

CHAPTER 14. LANDLORD AND TENANT.

§ 45-1401. Notice to quit — Unnecessary with lease for certain term; landlord's right to immediate possession.

Wrongful eviction and conversion held District claims. — The source of claims, in counts alleging wrongful eviction and conversion, was not federal bankruptcy law, but the laws of the District of Columbia. Powell v. Washington Land Co., App. D.C., 684 A.2d 769 (1996).

Cited in Auger v. Tasea Inv. Co., App. D.C., 676 A.2d 18 (1996); Ashton Gen. Partnership v. Federal Data Corp., App. D.C., 682 A.2d 629 (1996); Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-1402. Same — Month to month or quarter to quarter tenancy; expiration of notice.

Cited in Auger v. Tasea Inv. Co., App. D.C., 676 A.2d 18 (1996).

§ 45-1404. Same — Tenancies by sufferance; apportionment of rent.

Notice held valid.

A notice to quit that expired 30 days after the day of service of the notice served on a tenant in sufferance for nonpayment of rent was valid; tenant was not entitled to the notice provisions of the Rental Housing Act. Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-1409. Recovery of real and personal property leased together.

Landlord and Tenant Branch jurisdiction. — A complaint for possession of realty, which was brought under this section and § 16-1501 by the personal representative of an estate to obtain possession of real property from relatives of the deceased, was within the jurisdiction of the Landlord and Tenant Branch of the Superior Court and should not have been dismissed. Estate of Ellis ex rel. Clark v. Hoes, App. D.C., 677 A.2d 50 (1996).

§ 45-1410. Action in ejectment — When proper.

Cited in Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

CHAPTER 16. RENTAL HOUSING CONVERSION AND SALE.

Subchapter V. Implementation and Enforcement.

Subchapter I. Findings; Purposes; Definitions.

§ 45-1601. Findings.

Cited in Redmond v. Birkel, 933 F. Supp. 1 (D.D.C. 1996).

§ 45-1603. Definitions.

Section references. — This section is referred to in § 45-2204.

Subchapter IV. Opportunity to Purchase.

§ 45-1637. Right of first refusal.

Applicability. — Signing a lease and becoming HUD's "tenant" did not undercut C.F.R. § 291.100(a)(2)'s express disabling provision and leave defaulted mortgagor free to enjoy a tenant's right of first refusal. Booker v. Edwards, 99 F.3d 1165 (D.C. Cir. 1996).

Cited in Redmond v. Birkel, 933 F. Supp. 1 (D.D.C. 1996).

§ 45-1640. Accommodations with 5 or more units.

Right of individual tenant to negotiate or bring suit.

Plaintiff individual tenant alone had no right under this section to buy her apartment building, which was sold to a third party; in order for plaintiff to claim she had lost the opportunity to purchase the complex, she was required to submit materials to show that if defendants had not concealed the sale: (1) the tenants would have formed a tenant organization; (2) they would have registered the organization with the mayor, as required by the Rental Housing Act; and (3) they would have engaged in negotiations to purchase the property, including financing and the like. Redmond v. Birkel, 933 F. Supp. 1 (D.D.C. 1996).

Subchapter V. Implementation and Enforcement.

§ 45-1651. Rule making; publication requirements.

* * * * *

(c) By March 5, 1996, the Mayor shall issue updated rules for comment, which shall reflect all changes made by the Rental Housing Conversion and Sale Act of 1980 Reenactment Extension and Amendment Act of 1995. Within 180 days after publication of the proposed rules, the Mayor shall adopt final rules. The failure to meet these deadlines shall not prevent the changes in the Rental Housing Conversion and Sale Act of 1980 Reenactment Extension and Amendment Act of 1995 from being effective immediately upon September 6, 1995. (Sept. 10, 1980, D.C. Law 3-86, § 501, 27 DCR 2975; Sept. 22, 1994, D.C.

Law 10-176, § 3(p), 41 DCR 5175; Sept. 6, 1995, D.C. Law 11-31, § 3(p), 42 DCR 3239; Apr. 9, 1997, D.C. Law 11-255, § 47, 44 DCR.)

Effect of amendments.
D.C. Law 11-255 validated previously made changes in (c) and inserted "Reenactment" following "1980" in two places in (c).

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective April 9, 1997.

References in text.
The "Rental Housing Conversion and Sale Act of 1980 Reenactment Extension and Amendment Act of 1995," referred to twice in this section, is D.C. Law 11-31.

CHAPTER 17. HORIZONTAL PROPERTY REGIMES.

§ 45-1702. Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used herein:

* * * * *

(14) "Common expenses" means and includes;

* * * * *

(C) Expenses agreed upon as common expenses by the council of co-owners; and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 48(a), 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (14)(C).

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

§ 45-1709. Plat of condominium subdivision — Contents thereof; certification and recordation.

(a) Whenever the owner or the co-owners of any square or lot duly subdivided in conformity with § 1-920 or other applicable laws of the District of Columbia shall deem it necessary to subdivide the same into a condominium project of convenient condominium units for sale and occupancy and means of access for their accommodation, he may cause a plat or plats to be made by the

surveyor of the District of Columbia, on which said plats, together, shall be expressed:

* * * * *

(3) The dimensions and lengths of the interior finished surface of walls, elevations, from said same fixed known point, of the finished floors and of the finished ceilings of the general common elements of the building, and, in proper case, of the limited common elements restricted to a given number of condominium units, expressing which are those units; and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 48(b), 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (a)(3).

Legislative history of Law 11-255. — See note to § 45-1702.

§ 45-1714. Same — Necessary; modification of administration.

(a) The bylaws must necessarily provide for at least the following:

* * * * *

(7) Designation of person authorized to accept service of process in any action relating to 2 or more units or to the common elements as authorized under § 45-1724. Such person must be a resident of and maintain an office in the District of Columbia; and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 48(c), 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (a)(7).

Legislative history of Law 11-255. — See note to § 45-1702.

CHAPTER 18. CONDOMINIUMS.

Subchapter I. General Provisions.

Subchapter IV. Registration and Offering of Condominiums.

Subchapter I. General Provisions.

§ 45-1802. Definitions.

For the purposes of this chapter:

* * * * *

(18) "Leasehold condominium" shall mean a condominium all or any portion of which is subject to a lease, the expiration or termination of which will terminate the condominium or exclude a portion therefrom.

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 49(a), 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (18).

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Subchapter III. Control and Governance of Condominiums.

§ 45-1847. Maintenance, repair, etc., of condominiums; right of access for repair; liability for damages arising from exercise thereof; warranty against structural defects; limitations upon actions; bond or other security.

Construction. — This section does not create substantive rights or a particular standard of care; this section does not give rise to a duty in the association to make safe an area for uses for which it was not structurally designed, nor confer upon owners the right to use portions of the condominium elements in a manner prohibited by its bylaws and regulations. Lacy v. Sutton Place Condominium Ass'n, Inc., App. D.C., 684 A.2d 390 (1996).

§ 45-1849. Tort and contract liability of association and declarant; judgment liens against common property and individual units.

Construction. — This section does not create substantive rights or a particular standard of care; this section does not give rise to a duty in the association to make safe an area for uses for which it was not structurally designed, nor confer upon owners the right to use portions of the condominium elements in a manner prohibited by its bylaws and regulations. Lacy v. Sutton Place Condominium Ass'n, Inc., App. D.C., 684 A.2d 390 (1996).

§ 45-1850. Insurance obtained by association; notice to unit owners.

Cited in Voytsechovska v. Albert, 126 WLR 849 (Super. Ct. 1998).

Subchapter IV. Registration and Offering of Condominiums.

§ 45-1863. Application for registration; contents; later registration of additional units; availability for public inspection; fee to be determined by Mayor.

(a) The application for registration of the condominium shall be filed as prescribed by the Mayor's rules and shall contain the following documents and information:

* * * * *

(6) Plats and plans of the condominium that comply with the provisions of § 45-1824 other than the certification requirements thereof, and which show all units and buildings containing units to be built anywhere within the submitted land other than within the boundaries of any convertible lands; except that the Mayor may by regulation or order waive or modify this requirement or the requirements of § 45-1824 for plats and plans of a condominium located outside the District of Columbia;

(7) The proposed public offering statement; and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 49(b), 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (a)(6) and (7).

Legislative history of Law 11-255. — See note to § 45-1802.

§ 45-1864. Public offering statement; form prescribed by Mayor; contents; use in promotions; material change in information and amendment of statement.

(a) A public offering statement shall disclose fully and accurately the characteristics of the condominium and the units therein offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the condominium. The proposed public offering statement submitted to the Mayor shall be in a form prescribed by his rules and shall include:

* * * * *

(13) A statement as to whether or not the condominium satisfies, or is expected to satisfy, the special requirements pertaining to condominiums established by federal, federally chartered or District of Columbia institutions which insure, guarantee or maintain a secondary market for condominium unit mortgages;

(14) Additional information required by the Mayor to assure full and fair disclosure to prospective purchasers; and

* * * * *

(Mar. 8, 1991, D.C. Law 8-233, § 2(rr), 38 DCR 261; Aug. 17, 1991, D.C. Law 9-38, § 2(l), 38 DCR 4966; Mar. 20, 1992, D.C. Law 9-82, § 2(n), 39 DCR 683; Mar. 24, 1998, D.C. Law 12-81, § 54, 45 DCR 745.)

Effect of amendments. — D.C. Law 12-81, in (a)(13) and (14), validated previously made technical corrections.

Legislative history of Law 12-81. — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

CHAPTER 19. REAL ESTATE AND BUSINESS CHANCE LICENSES.

§ 45-1921. Purposes.

The purposes of this chapter are to protect the public against incompetence, fraud and deception in real estate transactions; to establish a Real Estate Guaranty and Educational Fund to compensate victims of unlawful real estate practices; and for other purposes. (Mar. 10, 1983, D.C. Law 4-209, § 2, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(a), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(a), 46 DCR 3142.)

Effect of amendments. — D.C. Law 12-261 deleted "to revise the real estate licensure law; to establish educational and other qualifications for real estate brokers, real estate salespersons, and property managers; to establish registration and certification procedures for resident managers" following "The purposes of this chapter are."

Legislative history of Law 12-261. — Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second reading on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615, and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Cited in Fred Ezra Co. v. Pedas, App. D.C., 682 A.2d 173 (1996).

§ 45-1922. Definitions.

For purposes of this chapter:

(1) The term "advance fee" means any fee, commission, or other valuable consideration contracted for, claimed, demanded, charged, received, or collected prior to the listing, advertisement, or offer to sell or lease real estate, paid or offered to be paid for the purpose of promoting the sale or lease of real

estate, or for referral to any real estate broker, salesperson, or both, other than by newspaper of general circulation.

(1A) The term "agency" means every relationship in which a real estate licensee acts for or represents a person by such person's express authority in a real estate transaction, unless a different legal relationship is intended and is agreed to as part of the brokerage relationship. Nothing in this chapter shall prohibit a licensee and a client from agreeing in writing to a brokerage relationship under which the licensee acts as an independent contractor or which imposes on a licensee obligations in addition to those provided in this chapter. If a licensee agrees to additional obligations, however, the licensee shall be responsible for the additional obligations agreed to with the client in the brokerage relationship. A real estate licensee who enters into a brokerage relationship based upon a written contract which specifically states that the real estate licensee is acting as an independent contractor and not as an agent shall have the obligations agreed to by the parties in the contract, and such real estate licensee and its employees shall have no obligations under § 45-1934.1(a) through (e).

(1B) Repealed.

(2) Repealed.

(2A) The term "brokerage relationship" means the contractual relationship between a client and a real estate licensee who has been engaged by such client for the purpose of procuring a seller, buyer, option, tenant, or landlord ready, able, and willing to sell, buy, option, exchange, or rent real estate on behalf of a client, or for the purposes of managing real estate on behalf of a client.

(3) Repealed.

(3A) The term "client" means a person who has entered into a brokerage relationship with a licensee.

(4) The term "Board" means the Board of Real Estate established by the Non-Health Related Occupations and Professions Licensure Act of 1998.

(4A) The term "common source information company" means any person, firm, or corporation that is a source, compiler, or supplier of information regarding real estate for sale or lease and other data and includes, but is not limited to, multiple listing services.

(5) The term "Council" means the Council of the District of Columbia.

(5A) The term "customer" means a person who has not entered into a brokerage relationship with a licensee, but for whom a licensee performs ministerial acts in a real estate transaction. Unless a licensee enters into a brokerage relationship with such person, it shall be presumed that such person is a customer of the licensee rather than a client.

(5B) The term "designated agent" or "designated representative" means a licensee who has been assigned by a principal or supervising broker to represent a client when a different client is also represented by such principal or broker in the same transaction.

(6) The term "District" means the District of Columbia.

(6A) The term "dual agent" or "dual representative" means a licensee who has a brokerage relationship with both seller and buyer, or both landlord and tenant, in the same real estate transaction.

(6B) The term "escrow funds" means earnest money deposits for purchase of residential and commercial property and security deposits for rental of residential and commercial property.

(7) The term "Fund" means the Real Estate Guaranty and Education Fund established by § 45-1948.

(7A) The term "licensee" means, respectively, real estate brokers, salespersons and property managers, as defined in paragraphs (10) (property manager), (12) (real estate broker), and (13) (real estate salesperson) of this section, provided that nothing in § 45-1934.1 shall be deemed to modify the licensure requirements otherwise set forth in this chapter.

(7B) The term "material fact" means information that, if known, would be likely to induce a reasonable person to enter into or not enter into or consummate a real estate transaction.

(8) The term "Mayor" means the Mayor of the District of Columbia or the Mayor's authorized representative.

(8A) The term "ministerial acts" means those routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the licensee's own judgment.

(9) The term "person" means any individual, partnership, association, unincorporated business, firm, business trust, or corporation.

(10) Repealed.

(10A) Repealed.

(10B) The term "property management" means leasing, renting or offering to lease or rent, managing, marketing, and the overall operation and maintenance of real estate. The term "property management" includes the physical, administrative, and fiscal management of any real property serviced by a licensee, or his or her employee or agent.

(10C) The term "psychological impact" means any fact or suspicion with respect to circumstances, other than the physical condition of the property, that creates a fear, belief, or mental condition.

(11) The term "real estate" means condominiums, leaseholds, time sharing and any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether located in the District or elsewhere. The term "real estate" includes any share or membership in a cooperative organized pursuant to Chapter 11 of Title 29, to engage in activities relating to real estate, even though the shares or membership may be deemed to be securities or personal property for purposes of such chapter.

(12) Repealed.

(12A) The term "real estate franchise" means any real estate franchise brokerage firm practicing in the District which does not own or operate individual offices directly, but licenses its trade name, reputation, operation procedure, and referral services to independently owned and operated brokerage firms.

(13) Repealed.

(13A) Repealed.

(13B) The term "standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in this section.

(14) The term "written listing contract" means a contract between a broker and an owner in which the owner grants to the broker the right to find

a purchaser for a designated property at the price and terms the owner agrees to accept, and the broker, for a fee, commission, or other valuable consideration, promises to make a reasonable effort to obtain a purchaser for the term of the contract. (Mar. 10, 1983, D.C. Law 4-209, § 3, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(b), 31 DCR 4023; Mar. 6, 1991, D.C. Law 8-209, § 2(a), 37 DCR 8464; Feb. 5, 1994, D.C. Law 10-68, § 38(a), 40 DCR 6311; Apr. 9, 1997, D.C. Law 11-242, § 2(a), 44 DCR 1128; Mar. 24, 1998, D.C. Law 12-81, § 55(a), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-261, § 1233(b), 46 DCR 3142; Apr. 20, 1999, D.C. Law 12-264, §§ 51, 57(f), 46 DCR 2118.)

Effect of amendments.

D.C. Law 11-242 inserted present (1A), (2A), (3A), (4A), (5A), (5B), (6A), (7A), (8A) and (13B) and redesignated former (1A), (6A) and (7A) as present (1B), (6B) and (7B), respectively.

D.C. Law 12-81 validated previously made technical corrections.

D.C. Law 12-261 repealed (1B); (10); (10A); (12); (13); (13A); and rewrote (4).

D.C. Law 12-264 validated previously made technical corrections.

Legislative history of Law 11-242. — Law 11-242, the "Real Estate Licensure Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-620, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-502 and transmitted to both Houses of Congress for its review. D.C. Law 11-242 became effective on April 9, 1997.

Legislative history of Law 12-81. — Law 12-81, the "Technical Amendments Act of 1997," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Legislative history of Law 12-261. — See note to § 45-1921.

Legislative history of Law 12-264. — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

References in text. — The "Non-Health Related Occupations and Professions Licensure Act of 1998," referenced in (4), is Title 1 of D.C. Law 12-261.

Cited in Fred Ezra Co. v. Pedas, App. D.C., 682 A.2d 173 (1996).

§ 45-1923. Real Estate Commission of the District of Columbia.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 4, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(c), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(c), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1924. Powers and duties of Mayor; evidentiary use of copies of Commission documents; record of Commission proceedings.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 5, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(d), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(d), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1925. Fees.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 6, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(e), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1926. Licensure of real estate brokers, real estate salespersons, and property managers.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 7, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(e), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(f), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1927. Qualifications for licensure.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 8, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(f), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(g), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1928. Status of person previously licensed.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 9, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(g), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(h), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1929. Licensure required for property managers.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 10, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(i), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1929.1. Registration and certification required for resident managers.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 10a, as added Sept. 26, 1984, D.C. Law 5-117, § 2(h), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(j), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1930. Qualifications for licensure of property managers.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 11, 30 DCR 390; Apr. 30, 1988, D.C. Law 7-104, § 45, 35 DCR 147; Apr. 20, 1999, D.C. Law 12-261, § 1233(k), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1930.1. Waiver of examination and education requirements for property managers.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 11a, as added Sept. 26, 1984, D.C. Law 5-117, § 2(i), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(l), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1931. Exemptions.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 12, 30 DCR 390; Oct. 8, 1983, D.C. Law 5-31, § 10(d), 30 DCR 3879; Sept. 26, 1984, D.C. Law 5-117, § 2(j), 31 DCR 4023; June 6, 1998, D.C. Law 12-116, § 3, 45 DCR 1960; Apr. 20, 1999, D.C. Law 12-261, § 1233(m), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

Editor's notes. — D.C. Law 12-116 had amended this section by adding a new paragraph (9).

§ 45-1932. Transfer of license; change of status; brokerage firms.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 13, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(k), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(n), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1932.1. Licensure of legal entities.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 13a, as added Sept. 26, 1984, D.C. Law 5-117, § 2(l), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(o), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1933. Place of business.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 14, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(m), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(p), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1934. Prohibited names.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 15, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(n), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(q), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1934.1. Duties of real estate brokers, salespersons, and property managers.

(a) *Licensees engaged by sellers.*

(1) A licensee engaged by a seller shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the seller by:

(i) Seeking a sale at the price and terms agreed upon in the brokerage relationship or at a price and terms acceptable to the seller; however, the licensee shall not be obligated to seek additional offers to purchase the

property while the property is subject to a contract of sale, unless agreed to as part of the brokerage relationship or as the contract of sale so provides;

(ii) Presenting in a timely manner all written offers or counteroffers to and from the seller, even when the property is already subject to a contract of sale;

(iii) Disclosing to the seller material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(iv) Accounting for in a timely manner all money and property received in which the seller has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the seller consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective buyers honestly and shall not knowingly give them false information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a buyer for providing false information to the buyer if the false information was provided to the licensee by the seller and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. Nothing in this section shall modify or limit in any way the provisions of § 45-1936(f).

(3) A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a buyer or potential buyer by performing ministerial acts. Performing such ministerial acts that are not inconsistent with this subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the seller unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such buyer or potential buyer.

(4) A licensee engaged by a seller does not breach any duty or obligation owed to the seller by showing alternative properties to prospective buyers, whether as clients or customers, or by representing other sellers who have other properties for sale.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(b) *Licensees engaged by buyers.*

(1) A licensee engaged by a buyer shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the buyer by:

(i) Seeking a property at a price and with terms acceptable to the buyer; however, the licensee shall not be obligated to seek other properties for

the buyer while the buyer is a party to a contract to purchase property unless agreed to as part of the brokerage relationship;

(ii) Presenting in a timely manner all written offers or counteroffers to and from the buyer, even when the buyer is already a party to a contract to purchase property;

(iii) Disclosing to the buyer material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall modify or limit in any way the provisions of § 45-1936(f); and

(iv) Accounting for in a timely manner all money and property received in which the buyer has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the buyer consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective sellers honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. In the case of a residential transaction, a licensee engaged by a buyer shall disclose to a seller the buyer's intent to occupy the property as a principal residence.

(3) A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to the seller, or prospective seller, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the buyer unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the seller.

(4) A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by representing other buyers looking at the same or other properties, or by representing sellers relative to other properties.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(c) *Licensees engaged by landlords to lease property.*

(1) A licensee engaged by a landlord shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the landlord by:

(i) Seeking a tenant at the price and terms agreed in the brokerage relationship or at a price and terms acceptable to the landlord; however, the licensee shall not be obligated to seek additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under which

the tenant has not yet taken possession, unless agreed as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(ii) Presenting in a timely manner all written offers or counteroffers to and from the landlord, even when the property is already subject to a lease or a letter of intent to lease;

(iii) Disclosing to the landlord material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(iv) Accounting for in a timely manner all money and property received in which the landlord has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective tenants honestly and shall not knowingly give them false information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a tenant for providing false information to the tenant if the false information was provided to the licensee by the landlord and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. Nothing in this subsection shall limit the right of a prospective tenant to inspect the physical condition of the property. Nothing in this section shall modify or limit in any way the provisions of § 45-1936(f).

(3) A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a tenant, or potential tenant, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such tenant or potential tenant.

(4) A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by showing alternative properties to prospective tenants, whether as clients or customers, or by representing other landlords who have other properties for lease.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(d) *Licensees engaged by tenants.*

(1) A licensee engaged by a tenant shall:

(A) Perform in accordance with the terms of the brokerage relationship;

(B) Promote the interests of the tenant by:

(i) Seeking a lease at a price and with terms acceptable to the tenant; however, the licensee shall not be obligated to seek other properties for the

tenant while the tenant is a party to a lease or a letter of intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(ii) Presenting in a timely fashion all written offers or counteroffers to and from the tenant, even when the tenant is already a party to a lease or a letter of intent to lease;

(iii) Disclosing to the tenant material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall amend or limit in any way the provisions of § 45-1936(f); and

(iv) Accounting for in a timely manner all money and property received in which the tenant has or may have an interest;

(C) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the tenant consents in writing to the release of such information;

(D) Exercise ordinary care; and

(E) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Licensees shall treat all prospective landlords honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law.

(3) A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or prospective landlord by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the tenant unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the landlord or prospective landlord.

(4) A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by representing other tenants looking for the same or other properties to lease, or by representing landlords relative to other properties.

(5) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(e) *Licensees engaged to manage real estate.*

(1) A licensee engaged to manage real estate shall:

(A) Perform in accordance with the terms of the property management agreement;

(B) Exercise ordinary care;

(C) Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property;

(D) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other

information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the owner consents in writing to the release of such information;

(E) Account for, in a timely manner, all money and property received in which the owner has or may have an interest; and

(F) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(2) Except as provided in the property management agreement, a licensee engaged to manage real estate does not breach any duty or obligation to the owner by representing other owners in the management of other properties.

(3) A licensee may also represent the owner as seller or landlord if they enter into a brokerage relationship that so provides; in which case, the licensee shall disclose such brokerage relationships pursuant to the provisions of this section.

(f) *Preconditions to brokerage relationship.*

Prior to entering into any brokerage relationship provided for in this section, a licensee shall advise the prospective client of the type of brokerage relationship proposed by the broker, and the broker's compensation, and whether the broker will share such salary or compensation with another broker who may have a brokerage relationship with another party to the transaction.

(g) *Commencement and termination of brokerage relationships.*

(1) The brokerage relationships set forth in this section shall commence at the time that a client engages a licensee and shall continue until (A) completion of performance in accordance with the brokerage relationship, or (B) the earlier of (i) any date of expiration agreed upon by the parties as part of the brokerage relationship or in any amendments thereto, (ii) any mutually agreed upon termination of the relationship, (iii) a default by any party under the terms of the brokerage relationship, or (iv) a termination as set forth in subsection (i)(4) of this section.

(2) Brokerage relationships shall have a definite termination date; however, if a brokerage relationship does not specify a definite termination date, the brokerage relationship shall terminate 90 days after the date the brokerage relationship was entered into.

(3) Except as otherwise agreed to in writing, a licensee owes no further duties to a client after termination, expiration, or completion of performance of the brokerage relationship, except to account for all moneys and property relating to the brokerage relationship, and keep confidential all personal and financial information received from the client during the course of the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the client consents in writing to the release of such information.

(h) *Disclosure of brokerage relationship.*

(1) Upon having a substantive discussion about a specific property or properties with an actual or prospective buyer or seller who is not the client of the licensee, a licensee shall disclose any broker relationship the licensee has with another party to the transaction. Further, except as provided in subsection (i) of this section, such disclosure shall be made in writing at the earliest

practical time, but in no event later than the time when specific real estate assistance is first provided. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Disclosure which complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

"DISCLOSURE OF BROKERAGE RELATIONSHIP

"The undersigned do hereby acknowledge disclosure that:
"The licensee .....

Name of Firm

represents the following party in a real estate transaction:

..... Seller(s) or	..... Buyer(s)
..... Landlord(s) or	..... Tenant(s)
.....	.....
Date	Name
.....	.....
Date	Name".

(2) A licensee shall disclose to an actual or prospective landlord or tenant, who is not the client of the licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in all applications for lease or in the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, disclosure shall be made in writing no later than the signing of lease. Such disclosure requirement shall not apply to lessors or lessees in single or multifamily residential units for lease terms of less than 2 months.

(3) If a licensee's relationship to a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the specific contemplated transaction.

(4) Copies of any disclosures relative to fully executed purchase contracts shall be kept by the licensee for a period of 3 years as proof of having such disclosure, whether or not such disclosure is acknowledged in writing by the party to whom such disclosure was shown or given.

(i) *Disclosed dual or designated representation authorized.*

(1) A licensee may act as a dual representative only with the written consent of all clients to the transaction. Such written consent and disclosure of the brokerage relationship as required by this section shall be presumed to have been given as against any client who signs a disclosure as provided in this section.

(2) Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which complies substantially in effect with the following shall be deemed in compliance with this disclosure requirement:

"DISCLOSURE OF DUAL REPRESENTATION

"The undersigned do hereby acknowledge disclosure that:
"The licensee .....

(Name of Broker, Firm, Salesperson or Property Manager as applicable) represents more than one party in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)

..... Landlord(s) and Tenant(s).

"The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by § 45-1936(f), to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

.....	.....
Date	Name (One Party)
.....	.....
Date	Name (One Party)
.....	.....
Date	Name (Other Party)
.....	.....
Date	Name (Other Party)".

(3) No cause of action shall arise against a dual representative for making disclosures of brokerage relationships as provided by this section. A dual representative does not terminate any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

(4) In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual representation, thereby terminating the brokerage relationship with such client. Such withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction nor to limit the licensee from representing the client who refused the dual representation in other transactions not involving dual representation.

(5) A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of such designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

(6) Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this section. Such disclosure may be given in combination with other disclosures or provided with other information, but if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box. Any disclosure which

complies substantially in effect with the following shall be deemed in compliance with such disclosure requirement:

"DISCLOSURE OF THE USE OF DESIGNATED REPRESENTATIVES

"The undersigned do hereby acknowledge disclosure that:

"The licensee .....

(Name of Broker and Firm)

represents more than one party in this real estate transaction as indicated below:

..... Seller(s) and Buyer(s)

..... Landlord(s) and Tenant(s).

"The undersigned understands that the foregoing dual representative may not disclose to either client or such client's designated representative any information that has been given to the dual representative by the other client within the confidence and trust of the brokerage relationship except for that information which is otherwise required or permitted by the Real Estate Licensure Amendment Act of 1996 to be disclosed. The undersigned by signing this notice do hereby acknowledge their informed consent to the disclosed dual representation by the licensee.

"The principal or supervising broker has assigned ..... to act as Designated Representative (Licensee/Sales Associate) for the one party as indicated below:

..... Seller(s) or ..... Buyer(s)

..... Landlord(s) or ..... Tenant(s).

and

..... to act as Designated Representative (Licensee/Sales Associate) for the one party as indicated below:

..... Seller(s) or ..... Buyer(s)

..... Landlord(s) or ..... Tenant(s)

....

Date Name (Other Party)

....

Date Name (Other Party)

....

Date Name (Other Party)

....

Date Name (Other Party)".

(j) *Compensation shall not imply brokerage relationship.*

The payment or promise of payment or compensation to a real estate broker or property manager does not create a brokerage relationship between any broker, seller, landlord, buyer or tenant.

(k) *Brokerage relationship not created by using common source information company.*

No licensee representing a buyer or tenant shall be deemed to have a brokerage relationship with a seller, landlord, or other licensee solely by reason of using a common source information company.

(l) *Liability; knowledge not to be imputed.*

(1) A client is not liable for a misrepresentation made by a licensee in connection with a brokerage relationship, unless the client knew or should have known of the misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of any property manager, broker, or broker's licensee.

(2) A licensee who has a brokerage relationship with a client and who engages another licensee to assist in providing brokerage services to such client shall not be liable for a misrepresentation made by the other licensee, unless the licensee knew or should have known of the other licensee's misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of the assisting licensee or assisting licensee's licensee.

(3) Clients and licensees shall be deemed to possess actual knowledge and information only. Knowledge or information between or among clients and licensees shall not be imputed.

(4) Nothing in this section shall limit the liability between or among clients and licensees in all matters involving unlawful discriminatory housing practices.

(5) Except as expressly set forth in this section, nothing in this section shall affect a person's right to rescind a real estate transaction or limit the liability of a client for the misrepresentation, negligence, gross negligence, or intentional acts of such client in connection with a real estate transaction, or a licensee for the misrepresentation, negligence, gross negligence, or intentional acts of such licensee in connection with a real estate transaction.

(m) *Commission regulations to be consistent.*

Any regulations adopted by the Commission shall be consistent with this section, and any such regulations existing as of April 9, 1997 shall be modified to comply with the provisions of this section.

(n) *Common law abrogated.*

The common law of agency relative to brokerage relationships in real estate transactions to the extent inconsistent with this section shall be expressly abrogated.

(o) *Applicability of criminal penalties.* — The criminal penalties provided in § 45-1946, shall not be applicable to violations of this section, which shall be civil and regulatory in nature, provided that the provisions in §§ 45-1934 through 45-1944 and 45-1950, shall be applicable to such violations. (Mar. 10, 1983, D.C. Law 4-209, § 15a, as added Apr. 9, 1997, D.C. Law 11-242, § 2(b), 44 DCR 1128; Mar. 24, 1998, D.C. Law 12-81, § 55(b), 45 DCR 745.)

Section references. — This section is referred to in § 45-1922.

Effect of amendments. — D.C. Law 11-242 added this section.

D.C. Law 12-81, in the form in (i)(6), deleted "District of Columbia" preceding "Real Estate Licensure Amendment Act of 1996."

Legislative history of Law 11-242. — See note to § 45-1922.

Legislative history of Law 12-81. — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

References in text. — The "Real Estate Licensure Amendment Act of 1996", referred to

in the form in (i)(6), is D.C. Law 11-242, which is codified as §§ 45-1922, 45-1934.1, 45-1936, 45-1945, and 45-1949.

Cited in Ehlen v. Lewis, 984 F. Supp. 5 (D.D.C. 1997).

§ 45-1935. Injunctions.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 16, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(r), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1936. Investigation of conduct; suspension or revocation of license; grounds; penalty in lieu of suspension; probationary period; reinstatement.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 17, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(o), 31 DCR 4023; Mar. 14, 1985, D.C. Law 5-159, § 8, 32 DCR 30; Mar. 6, 1991, D.C. Law 8-209, § 2(b), 37 DCR 8464; Feb. 5, 1994, D.C. Law 10-68, § 38(b), 40 DCR 6311; Apr. 9, 1997, D.C. Law 11-242, § 3(1), (2), 44 DCR 1128; Apr. 20, 1999, D.C. Law 12-261, § 1233(s), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1938. Procedural requirements.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 19, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(t), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1939. Automatic suspension of license through affiliation; discharge or termination of employment or affiliation.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 20, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(q), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(u), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1940. Prohibited acts.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 21, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(r), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(v), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1941. License suspended upon criminal conviction.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 22, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(w), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1942. Effect of criminal conviction upon license application.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 23, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(x), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1943. Effect of license revocation or suspension upon partnership, association, or corporation.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 24, 30 DCR 390; Sept. 26, 1984, D.C. Law 5-117, § 2(s), 31 DCR 4023; Apr. 20, 1999, D.C. Law 12-261, § 1233(y), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1944. Suspension or revocation of property manager license; code of ethics applicable to all licensees.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 25, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(z), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1945. Written listing contract required.

A written listing contract is required in the District for the sale of all real property. A licensee shall not receive payment of a commission in the absence of a written listing agreement. (Mar. 10, 1983, D.C. Law 4-209, § 26, 30 DCR 390; Apr. 9, 1997, D.C. Law 11-242, § 3(3), 44 DCR 1128.)

Effect of amendments. — D.C. Law 11-242 added the second sentence.

Legislative history of Law 11-242. — See note to § 45-1922.

Unwritten contracts for broker fees. — The enactment of this section has not changed the common law with respect to the enforceability of unwritten contracts for broker fees. Thus, this section does not bar the enforcement of unwritten implied-in-fact contracts to pay a real estate commission. Fred Ezra Co. v. Pedas, App. D.C., 682 A.2d 173 (1996); Moshovitis v. Bank Cos., App. D.C., 694 A.2d 64 (1997).

§ 45-1946. Criminal penalties; prosecutions.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 27, 30 DCR 390; Oct. 5, 1985, D.C. Law 6-42, § 405, 32 DCR 4450; Apr. 20, 1999, D.C. Law 12-261, § 1233(aa), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1947. Duties of Corporation Counsel.

Repealed.

(Mar. 10, 1983, D.C. Law 4-209, § 28, 30 DCR 390; Apr. 20, 1999, D.C. Law 12-261, § 1233(bb), 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-1921.

§ 45-1949. Applications for payments from Fund; maximum payment; management of Fund.

* * * * *

(b) A person filing an application meets the requirements of this subsection if:

* * * * *

(2) The person has made the investigation as is reasonably necessary to determine whether the judgment debtor possesses real or personal property or other assets which are liable to be sold or applied in satisfaction of the final judgment and has filed with the Board an affidavit which states that the investigation has been made; and

* * * * *

(d) The aggregate of claims by judgment creditors against the Fund based upon an unpaid final judgment arising out of the acts of the licensee in

connection with a single transaction shall be $50,000 regardless of the number of claimants. If the aggregate of claims exceeds $50,000, the Board shall pay $50,000 to the claimants in proportion to the amounts of their final judgments against the Fund which remain unpaid. If the Mayor has reason to believe that there may be additional claims against the Fund arising out of the same transaction, the Mayor may withhold payment from the Fund involving the licensee for a period of not more than 1 year.

* * * * *

(f) Whenever an aggrieved person who has become a judgment creditor as provided in this section files an application for an order directing payment from the Fund, the Mayor shall cause a copy of the application to be served on the licensee alleged to be the judgment debtor, by certified mail, return receipt requested, to the address of record of the licensee, and the matter shall be set for hearing before the Board. Whenever the Mayor determines that the applicant is entitled to payment from the Fund, the Mayor shall issue an order directing payment from the Fund in an amount consistent with this chapter.

* * * * *

(l) Whenever the amount deposited in the Fund is less than the minimum balance established pursuant to subsection (k) of this section, the Mayor shall assess each licensee an amount, not to exceed $50 during any license year, within 30 calendar days, which is sufficient, when combined with similar assessments of other licensees, to bring the balance of the Fund up to the minimum established. Whenever the amount deposited in the Fund is more than the maximum balance established, the Mayor shall waive contributions to the Fund required by this chapter.

(m) Notice of an assessment required pursuant to subsection (l) of this section shall be sent, by certified mail, to each licensee at his or her address of record. The Board may waive the certified mail requirement to licensees only when the Board is doing a mass mailing, the cost of which makes the application of such fee an undue financial burden on the Board an may, in such circumstances, send notice of the assessment by regular mail to each licensee at his or her address of record. The Board shall also post notice of the assessment in at least two trade publications distributed within the metropolitan area and in a local newspaper in the real estate section. Payment of the assessment shall be made within 30 calendar days after the receipt by the licensee of the notice.

(n) A failure by any licensee to pay an assessment required pursuant to subsection (l) of this section within 30 days after the licensee has received notice of the assessment shall result in the automatic suspension of the license of the licensee. The Board shall send a notice of the suspension, by certified mail, to the address of record of the licensee within 5 days after the suspension. The license shall be restored only upon the actual receipt by the Mayor of the delinquent assessment, plus any interest and penalties as the Mayor may prescribe by rule.

(o) The Board may expend a sum not to exceed 20% of the amounts deposited in the Fund, on October 1 of each year, for the establishment and

maintenance of educational programs for improving the competency of licensees and applicants for licensure so as to further protect the public interest, and for conferences, workshops, and educational programs for real estate license officials. The cost of administering the Fund shall be paid out of the Fund.

* * * * *

(Apr. 9, 1997, D.C. Law 11-242, § 3(4), (5), 44 DCR 1128; Apr. 20, 1999, D.C. Law 12-261, § 1233(cc), 46 DCR 3142.)

Effect of amendments. — D.C. Law 11-242 substituted "$50" for "$20" in (l); and inserted the second sentence in (m).

D.C. Law 12-261 substituted "Board" for "Commission" throughout the section.

Legislative history of Law 11-242. — See note to § 45-1922.

Legislative history of Law 12-261. — See note to § 45-1921.

Cited in Voytsechovska v. Albert, 126 WLR 849 (Super. Ct. 1998).

CHAPTER 21. HOUSING FINANCE AGENCY.

Subchapter I. Policy and Definitions.

Subchapter II. Establishment of the Agency.

Subchapter III. Operations of the Agency.

Subchapter IV. Financial Affairs of the Agency.

Subchapter V. Public Accountability.

Subchapter I. Policy and Definitions.

§ 45-2101. Declaration of policy.

* * * * *

(b) The Council determines that a corporate instrumentality of the District shall be created and given authority to generate funds from private and public sources to increase the supply and lower the cost of funds available for residential mortgages and construction loans and thereby help alleviate the shortage of adequate housing. The Council further determines that this purpose can be accomplished through programs whereby mortgage lenders and/or the Agency make mortgage, construction and rehabilitation loans for single and multifamily rental and home ownership units on terms designed to expand available housing opportunities. The Council further determines that this purpose can also be accomplished through a program whereby the Agency issues bonds and lends the proceeds thereof to Eligible State and Local Government Units to enhance the Agency's ability to generate revenues to fulfill its duties under this chapter. The Council further determines that the goals of neighborhood and fiscal stability can be achieved through a policy of residential economic diversity.

* * * * *

(Apr. 20, 1999, D.C. Law 12-247, § 2(a), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 inserted the third sentence in (b).

Legislative history of Law 12-247. — Law 12-247, the "Housing Finance Agency Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-300, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-584 and transmitted to both Houses of Congress for its review. D.C. Law 12-247 became effective on April 20, 1999.

§ 45-2102. Definitions.

The following terms as used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

* * * * *

(8) "Eligible persons" means individuals and families who qualify for housing under a given program according to the requirements of the program as established by the Agency.

(8A) "Eligible State or Local Government Unit" means any state or political subdivision thereof within the meaning of § 103 of the Internal Revenue Code of 1986 (or successor provisions), including any agency, authority, body, commission or entity that acts on behalf of any such state or political subdivision, which is authorized under applicable law to issue bonds or enter into other obligations for the purpose of providing low and moderate income housing.

(8B) "State or Local Government Loan" means a loan or other advance of monies by the Agency to an Eligible State or Local Government Unit to be used

as permitted by refunding agreements between the Eligible State or Local Government Unit and the Department of Housing and Urban Development.

* * * * *

(10) "Homeownership program" means any type of program through which a person can achieve an ownership position in a residential unit including, but not limited to, cooperatives and condominiums.

(11) "Housing project or project" means any undertaking to plan, develop, construct or rehabilitate one or more dwelling units located in the District of Columbia which meets the requirements of this chapter. Such undertaking may include, but is not limited to any building, land, equipment, facilities or other real or personal property which are necessary, convenient or desirable appurtenances, streets, sewers, utilities, parks, site preparation or landscaping; and other non-housing facilities, such as offices, stores, commercial facilities, community, medical, educational, social, health, recreational, and welfare facilities, which are reasonably related to and subordinate to the housing project, consistent with the applicable Internal Revenue Code provisions, as amended, and the regulations thereunder, as determined to be necessary, convenient or desirable by the Agency. Any facility which incorporates the residence and care of persons with special needs, including but not limited to the aged, youth, students, homeless, persons with disabilities, persons requiring health and medical care, shall be deemed an undertaking for purposes of this chapter.

(11A) "Loan" means a secured or unsecured obligation issued for the purposes of financing a housing project or homeownership program.

(12) "Low income persons" means those persons and families whose annual income as determined by the Agency does not exceed the income requirements for low income persons as established by the Internal Revenue Service or the Department of Housing and Urban Development from time to time as applicable to the particular housing project or homeownership program under the Agency's plan of financing.

(13) "Moderate income persons" means those persons and families whose annual income as determined by the Agency does not exceed the income requirements for moderate income persons established by the Internal Revenue Service or the Department of Housing and Urban Development from time to time as applicable to the particular housing project or homeownership program under the Agency's plan of financing.

(14) "Mortgage" means a mortgage deed, deed of trust, or other security instrument which shall constitute a lien in the District on improvements and real property in fee simple, on a lease having a remaining term, which at the time such mortgage is acquired does not expire for at least that number of years beyond the maturity date of the obligation secured by such mortgage.

* * * * *

(16) "Mortgage loan" means an obligation secured by a mortgage financing a housing project.

* * * * *

(20) "Very-Low Income" means those persons and families whose annual income as determined by the Agency does not exceed the income requirements

for very-low income persons as established by the Internal Revenue Service or the Department of Housing and Urban Development from time to time as applicable to the particular housing project or homeownership program under the agency's plan of financing. (1973 Ed., § 45-1902; Mar. 3, 1979, D.C. Law 2-135, § 102, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(a)-(f), 28 DCR 2848; Apr. 20, 1999, D.C. Law 12-247, § 2(b), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote (8); inserted (8A) and (8B); in (10), deleted "(where the Agency so determines by resolution)" following "cooperatives"; rewrote (11); added (11A); rewrote (12), (13), (14), and (16); and added (20).

Legislative history of Law 12-247. — See note to § 45-2101.

References in text. — Section 103 of the Internal Revenue Code of 1986, referred to in (8A), is codified at 26 U.S.C. § 103.

Subchapter II. Establishment of the Agency.

§ 45-2111. Creation; purpose.

Repayment by D.C. Housing Finance Agency. — Section 147 of Pub. Law 104-194 provided that, notwithstanding any other law, the District of Columbia Housing Finance Agency, shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

Cited in District of Columbia Hous. Fin. Agency v. Harper, App. D.C., 707 A.2d 53 (1998).

§ 45-2112. Board of Directors.

(a) The agency shall be governed by a Board of Directors, which shall be comprised of 5 members who are residents of the District of Columbia. Two shall have experience in mortgage lending or finance, 2 shall have experience in home building, real estate, architecture, or planning, and 1 shall represent community or consumer interests. The members shall be appointed by the Mayor, with advice and consent of the Council. Members shall be appointed for 2-year terms. Of the 5 members first appointed pursuant to this chapter, 2 shall serve for a term of 1 year and 3 shall serve for a term of 2 years.

(b) The appointing authority or the Board may remove a member of the Board for inefficiency, neglect of duty or misconduct in office, after giving the member a copy of the charges against him and an opportunity to be heard in person or by counsel in his defense upon not less than 10 days' notice. Removal of a member by action of the Board shall require an affirmative vote of 3 members. If a member is removed by the Board, the Board shall promptly notify the Mayor and the Council of the action. Within 30 days after a vacancy occurs or a term expires, the Mayor shall nominate someone to fill the vacancy or begin the new term. The member shall hold office for the term of his appointment and shall serve until a successor has qualified. Any member shall be eligible for reappointment.

* * * * *

(d) The powers of the Agency shall be vested in the Board. A majority of the incumbent Board members shall constitute a quorum for the transaction of business, and an affirmative vote of 3 members shall be necessary for valid Agency action. Members of the Board may participate in a meeting of the

Board or a committee thereof by means of conference telephone or similar communication equipment so long as all Board members participating in the meeting and members of the public can be heard by each other. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all rights and perform all duties of the Agency. Members of the Board shall be reimbursed for actual and necessary expenses incurred while engaged in services for the Agency. A member of the Board not otherwise employed by the District may also receive per diem compensation at the rate equal to the daily equivalent of step 1 of Grade 15 of the General Schedule established under 5 U.S.C. § 5332, with a limit of $8,000 per annum.

(e) Repealed. (1973 Ed., § 45-1904; Mar. 3, 1979, D.C. Law 2-135, § 202, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(g), 28 DCR 2848; May 9, 1985, D.C. Law 6-4, § 2(a), 32 DCR 1602; Aug. 1, 1985, D.C. Law 6-15, § 8(a), 32 DCR 3570; Oct. 5, 1985, D.C. Law 6-44, § 2(a), 32 DCR 4487; Apr. 20, 1999, D.C. Law 12-247, § 2(c), 46 DCR 1100.)

Section references. — This section is referred to in § 1-633.7.

Effect of amendments. — D.C. Law 12-247 substituted "member" for "public member" throughout (a) and (b); rewrote (d); and repealed (e).

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2113. Executive Director; powers and duties; service as Secretary of Board; other necessary employees; rights and privileges thereof.

* * * * *

(c) The Executive Director may employ on a permanent or temporary basis such employees, including, but not limited to, technical advisors, financial advisors, accountants, legal counsel, appraisers, underwriters, and such other officers, agents and employees deemed necessary to operate the Agency efficiently, and shall determine their qualifications, duties, and compensation. (1973 Ed., § 45-1905; Mar. 3, 1979, D.C. Law 2-135, § 203, 25 DCR 5008; May 9, 1985, D.C. Law 6-4, § 2(b), 32 DCR 1602; Oct. 5, 1985, D.C. Law 6-44, § 2(b), 32 DCR 4487; Apr. 20, 1999, D.C. Law 12-247, § 2(d), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote (c).

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2114. Conflict of interest; disclosure; waiver of bar against participation by interested party.

Any member, officer, or employee of the Agency who is interested either directly or indirectly, or who is an officer or employee of, or has an ownership interest in any firm or agency interested directly or indirectly in any transaction with the Agency including, but not limited to, any loan to any sponsor, builder or developer, shall disclose this interest to the Agency. This interest shall be set forth in the minutes of the Agency, and the member, officer, or employee having the interest shall not participate on behalf of the Agency in the authorization or implementation of any such transaction. The Board by two-thirds majority vote may allow a waiver of a member's, officer's or employee's inability to participate in circumstances where the interest falls

within guidelines adopted as rules promulgated by the Board. (1973 Ed., § 45-1906; Mar. 3, 1979, D.C. Law 2-135, § 204, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(h), 28 DCR 2848; Apr. 20, 1999, D.C. Law 12-247, § 2(e), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 deleted former (b).

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2116. Delegation of Council authority to issue revenue bonds, notes and other obligations for Agency undertakings.

The Council delegates to the Agency the authority of the Council under § 47-334 to issue revenue bonds, notes and other obligations to borrow money to finance or assist in the financing of undertakings authorized by this chapter. An undertaking financed or assisted by the Agency shall constitute an undertaking in the area of primarily low and moderate income housing if the housing project or homeownership program complies with the income restriction, rent limitations, tenant income mixtures and other restrictions as established by the Internal Revenue Service, or the Department of Housing and Urban Development as applicable under the plan of financing determined by the Agency at the time it approves the undertaking for financing or assistance, or State or Local Government Loans are made that generate revenues which benefit programs authorized under this chapter. (Mar. 3, 1979, D.C. Law 2-135, § 206, as added Aug. 5, 1981, D.C. Law 4-28, § 2(i), 28 DCR 2848; Apr. 20, 1999, D.C. Law 12-247, § 2(f), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2117. Agency reports; Council review and approval of proposals.

(a) The Board of Directors of the Agency shall determine, by enactment of an eligibility resolution that a housing project or homeownership program contemplated to be financed through a bond issuance meets the requirements of this chapter. Subsequent to enactment of an eligibility resolution, the Agency shall send to the Chairman of the Council of the District of Columbia written notification thereof, describing the nature of the housing project, the benefits designed to result therefrom, as related to the public purposes of the Agency, and the criteria under which funds will be made available.

(a-1) Each notification transmitted to the Chairman of the Council of the District of Columbia shall set forth information pertaining to the following:

(1) Date of application;

(2) Name and description of the project;

(3) Address and ward location of the project;

(4) Developer of the project;

(5) Amount and type of financing requested;

(6) Amount and type of federal or District funds involved; and

(7) The number of units reserved for very-low, low and moderate income persons, income restrictions, and rent levels.

(b)(1) Repealed.

* * * * *

(Apr. 20, 1999, D.C. Law 12-247, § 2(g), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote (a); inserted (a-1); and repealed (b)(1).

Legislative history of Law 12-247. — See note to § 45-2101.

District of Columbia Housing Finance Agency Rockburne Estates Mortgage Revenue Bonds Resolution of 1997. — Proposed Resolution 12-0422, the "District of Columbia Housing Finance Agency Rockburne Estates Mortgage Revenue Bonds Resolution of 1997" was deemed approved, effective Nov. 7, 1997.

District of Columbia Housing Finance Agency Haven House Cooperative Multi-Family Mortgage Revenue Bonds Resolution of 1997. — Proposed Resolution 12-0422, the "District of Columbia Housing Finance Agency Haven House Cooperative Multi-Family Mortgage Revenue Bonds Resolution of 1997" was deemed approved, effective Nov. 7, 1997.

District of Columbia Housing Finance Agency 636 Cooperative Association for Tax Exempt Multi-Family Mortgage Revenue Bonds Resolution of 1998. — Pursuant to Resolution 12-(PR12-592), effective April 1, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for the 636 Cooperative Association.

District of Columbia Housing Finance Agency Archbishop Rivera Y. Damas Cooperative, Inc. Tax-Exempt Multi-Family Mortgage Revenue Bonds Resolution of 1998. — Pursuant to Resolution 12-(PR12-791), effective July 16, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for Archbishop Rivera Y. Damas Cooperative, Inc.

District of Columbia Housing Finance Agency Wheeler Creek Estates Tax-Exempt Multi-Family Mortgage Revenue Bonds Approval Emergency Resolution of 1998. — Pursuant to Resolution 12-620, effective July 7, 1998, the Council approved, on an emergency basis, the District of Columbia Housing Finance Agency's Eligibility Resolution for the Wheeler Creek Estates.

Housing Finance Agency Randolph Street Apartments Tax-Exempt Multi-Family Mortgage Revenue Bonds Approval Resolution of 1998. — Pursuant to Resolution 12-747, effective November 10, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for the acquisition and rehabilitation of the Randolph Street Apartments in Ward 4.

Housing Finance Agency Fort Stevens Apartments Tax-Exempt Multi-Family Mortgage Revenue Bonds Approval Resolution of 1998. — Pursuant to Resolution 12-748, effective November 10, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for the acquisition and rehabilitation of the Fort Stevens Apartments in Ward 4.

Housing Finance Agency Burke Park Apartments Tax-Exempt Multi-Family Mortgage Revenue Bonds Approval Resolution of 1998. — Pursuant to Resolution 12-749, effective November 10, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for the acquisition and rehabilitation of the Burke Park Apartments in Ward 2.

District of Columbia Housing Finance Agency Hamlin & 7th Street Apartments Tax-Exempt Multi-Family Mortgage Revenue Bonds Resolution of 1998. — Pursuant to Resolution 12-750, effective November 10, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for the acquisition and rehabilitation of the Hamlin & 7th Street Apartments in Ward 5.

Finance Agency Stewart Glen Apartments Tax-Exempt Multi-Family Mortgage Revenue Bonds Approval Resolution of 1998. — Pursuant to Resolution 12-751, effective November 10, 1998, the Council approved the District of Columbia Housing Finance Agency's proposal for the acquisition and rehabilitation of the Stewart Glen Apartments in Ward 8.

Subchapter III. Operations of the Agency.

§ 45-2121. General powers.

The Agency is hereby granted all powers necessary or convenient to effectuate its corporate purposes, including but not limited to, the following:

* * * * *

(4) To maintain, through purchase or lease, an office or offices at such place or places within the District as it may designate;

* * * * *

(6) To make and execute contracts and all other instruments for the performance of its duties under this chapter;

(6A) To originate and service mortgage loans or contract for the origination and servicing of mortgage loans and loans.

* * * * *

(8) To collect reasonable interest, fees and charges in connection with making and servicing its loans, including State and Local Government Loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative and project assistance services;

* * * * *

(10) To borrow money and to issue bonds, notes or other obligations and to give security therefor;

(11) To enter into agreements with the United States or any agency, department, instrumentality or political subdivision thereof, to provide that interest on any bonds, notes or other obligtions of the Agency will be subject to federal income taxes;

* * * * *

(13A) To make state and local government loans and enter into such agreements with the respective Eligible State and Local Government Units for the purpose of making a State or Local Government Loan on such terms and conditions as the Agency determines to be appropriate;

* * * * *

(15) To own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, or sell or otherwise dispose of any real or personal property if:

* * * * *

(20) To make grants, or to convert loans to grants or to forgive loans, to make loans or mortgage loans, either directly or through mortgage lenders, for the purpose of assisting in developing, acquiring, constructing, rehabilitating or improving any housing project financing under this chapter; and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 50, 44 DCR 1271; Apr. 20, 1999, D.C. Law 12-247, § 2(h), 46 DCR 1100.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (15).

D.C. Law 12-247 substituted "through purchase or lease an office or offices" for "an office" in (4); in (6), substituted "act" for "chapter including, but not limited to, contracts or agreements for the servicing and originating of mortgage loans"; added (6A); in (8), inserted "including State and Local Government Loans"; in (10) and (11), substituted "obligations" for "evidences of indebtedness"; added (13A); and rewrote (20).

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 12-247. — See note to § 45-2101.

Cited in District of Columbia Hous. Fin. Agency v. Harper, App. D.C., 707 A.2d 53 (1998).

§ 45-2122. Financing of housing projects.

The Agency may make, issue commitments for, participate in making loans or mortgage loans to sponsors for the financing of housing projects for eligible persons. Such housing projects shall comply with all applicable requirements regarding tenant income mixtures, tenant income, the number of units reserved for very-low, low and moderate income persons, and other requirements established by the Internal Revenue Service, the Department of Housing and Urban Development or other laws, rules and guidelines applicable under the Agency's plan of financing. (1973 Ed., § 45-1909; Mar. 3, 1979, D.C. Law 2-135, § 302, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(k), 28 DCR 2848; Aug. 1, 1985, D.C. Law 6-15, § 8(b), 32 DCR 3570; Oct. 5, 1985, D.C. Law 6-44, § 2(e), 32 DCR 4487; Apr. 20, 1999, D.C. Law 12-247, § 2(i), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2123. Financing of homeownership programs.

The Agency may invest in, purchase, make commitments to purchase, take assignments from mortgage lenders, originate, and service mortgage loans either directly or through mortgage lenders pursuant to criteria established by the Agency under a Homeownership program. Such criteria shall comply with the requirements of the Internal Revenue Service, the Department of Housing and Urban Development or other laws, rules and guidelines applicable under the Agency's plan of financing. (1973 Ed., § 45-1910; Mar. 3, 1979, D.C. Law 2-135, § 303, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(l)-(n), 28 DCR 2848; Apr. 20, 1999, D.C. Law 12-247, § 2(j), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2124. Loans to mortgage lenders; requirements for reinvestment of proceeds by lender.

Repealed.

(1973 Ed., § 45-1911; Mar. 3, 1979, D.C. Law 2-135, § 304, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(o), 28 DCR 2848; June 11, 1992, D.C. Law 9-118,

§ 7, 39 DCR 3189; Apr. 18, 1996, D.C. Law 11-110, § 49, 43 DCR 530; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-247, § 2(k), 46 DCR 1100.)

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2125. Supportive programs.

The Agency may establish, administer or contract for the administration of any program which assists sponsors or eligible persons, "or Eligible State or Local Government Units", as determined by the Agency consistent with the declarations of policy under § 45-2101 and the delegation of authority under § 45-2116. (1973 Ed., § 45-1912; Mar. 3, 1979, D.C. Law 2-135, § 305, 25 DCR 5008; Apr. 20, 1999, D.C. Law 12-247, § 2(l), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2126. Rulemaking.

The Agency shall establish rules and regulations to effectuate the purposes of this chapter. (1973 Ed., § 45-1913; Mar. 3, 1979, D.C. Law 2-135, § 306, 25 DCR 5008; Apr. 20, 1999, D.C. Law 12-247, § 2(m), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2127. Technical assistance, loans, grants and consultant services.

The Agency may provide eligible persons, sponsors or such individual, private or public corporation, association, group, organization, Eligible State or Local Government Unit, or any other entity with technical assistance, loans, grants or consultant services consistent with the authority of this chapter. (1973 Ed., § 45-1914; Mar. 3, 1979, D.C. Law 2-135, § 307, 25 DCR 5008; Apr. 20, 1999, D.C. Law 12-247, § 2(n), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

Subchapter IV. Financial Affairs of the Agency.

§ 45-2131. Receipt of funds; disposition thereof.

Repayment by D.C. Housing Finance Agency. — Section 147 of Pub. Law 104-194 provided that, notwithstanding any other law, the District of Columbia Housing Finance Agency, shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

§ 45-2131.1. Repayment of funds.

The Agency shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992, and any obligation to repay these moneys shall be forgiven. (Mar. 3, 1979, D.C. Law 2-135, § 401a, as added Apr. 9, 1997, D.C. Law 11-197, § 3, 43 DCR 4567.)

Effect of amendments. — D.C. Law 11-197 added this section.

Legislative history of Law 11-197. — Law 11-197, the "Housing Finance Agency Loan Forgiveness Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-537, which was referred to the Committee on Housing and Urban Affairs. The Bill was adopted on first and second readings on June 4, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-359 and transmitted to both Houses of Congress for its review. D.C. Law 11-197 became effective April 9, 1997.

Effective date. — Section 5 of D.C. Law 11-197 provided that the act shall take effect on the latter of: (1) following approval by the Mayor (or the Council in the event of a veto override), approval by the Financial Responsibility and Management Assistance Authority as provided in § 47-392.3(a), and a 30-day period of Congressional review as provided in § 1-233 (c)(1), and publication in the District of Columbia Register; or (2) enactment by Congress of legislation providing that the moneys advanced to the agency pursuant to congressional appropriations need not be repaid to the General Fund of the District of Columbia.

Repayment by D.C. Housing Finance Agency. — Section 147 of Pub. Law 104-194 provided that, notwithstanding any other law, the District of Columbia Housing Finance Agency, shall not be required to repay moneys advanced by the District government (including accrued interest thereon) pursuant to Congressional appropriations for fiscal years 1980 through 1992.

§ 45-2132. Issuance of bonds and notes; renewals and refunds; deemed obligations of Agency; negotiable instruments; director, employer, or agent not personally liable.

(a) *Borrowing authority.* — The Agency may, by resolution, authorize the issuance of bonds and notes or other obligations ("bonds or notes") for undertakings authorized by this chapter. In addition, the Agency may issue notes to renew notes and bonds to pay notes, including, the interest thereon. Whenever expedient, the Agency may refund bonds, including bonds previously issued by other than the Agency, by the issuance of new bonds, regardless of whether the bonds to be refunded have matured. The Agency is the successor to any and all District of Columbia Section 11(b) bond issuing authority. The Agency may also issue bonds for a combination of refund, renewal, and financing programs authorized by this chapter.

(b) *Obligations of the Agency.* — Except as expressly provided otherwise by the Agency, bonds and notes of the Agency are obligations payable solely from revenues derived from the respective housing projects which such obligations are issued to finance, provided that bonds and notes of the Agency issued, in whole or in part, for the purpose of enabling the Agency to make State and Local Government Loans are obligations payable solely, to the extent issued for such purpose, from revenues derived from repayment of State and Local Government Loans made from proceeds of such bonds and notes. The Agency may expressly provide additional security by pledge or contribution from any source in accordance with § 47-327.

(c) *Negotiable instruments.* — Regardless of their form or character, bonds and notes of the Agency are negotiable instruments for all purposes of the

Uniform Commercial Code of the District of Columbia (D.C. Code § 28:1-101 et seq.), subject only to the provisions of the bonds and notes for registration.

(d) *No personal liability.* — No director, employee or agent of the Agency is personally liable solely because a bond, note or other obligation is issued. The Agency shall indemnify any person who shall have served as a commissioner, officer, or employee of the Agency against financial loss or litigation expense arising out of or in connection with any claim or suit involving allegations that pecuniary harm has been sustained as a result of any transaction authorized by this chapter, unless such person is found by a final judicial determination not to have acted in good faith and for a purpose which he reasonably believed to be lawful and in the best interest of the Agency.

(e) *Compliance required.* — The issuance and performance of bonds, notes, and other obligations by the Agency as contemplated in this chapter and the adoption of resolutions authorizing such bonds, notes, and other obligations shall be done in compliance with the requirements of this chapter, but shall not be subject to Chapter 15 of Title 1 and, except as otherwise provided in the chapter, shall not be required to comply with the requirements of any legislation passed by the Council. No notice (except as provided in this section), proceeding, consent, or approval shall be required for the issuance or performance of any bond, note, or other obligation of the Agency or the execution of any instrument relating thereto or to the security therefor, except as provided in this chapter or in rules and regulations promulgated by the Agency. Notice of the adoption of a bond resolution shall be given to the Mayor and the Council before the adoption of such resolution. (1973 Ed., § 45-1917; Mar. 3, 1979, D.C. Law 2-135, § 402, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(r), 28 DCR 2848; Apr. 20, 1999, D.C. Law 12-247, § 2(o), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote (a); rewrote the first sentence in (b); and rewrote (d).

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2133. Terms for sale of bonds and notes; effect of resolution authorizing sale; pledge of agency and lien thereon; signature valid after office-holder vacates.

* * * * *

(c) *Additional provisions part of contract.* — If the resolution authorizing the sale of bonds or notes contains any of the provisions listed below, the provisions must also be part of the contract with holders of the bonds or notes. The provisions in the resolution may include the following:

* * * * *

(2) The pledge of revenue securing payment;

* * * * *

(Apr. 20, 1999, D.C. Law 12-247, § 2(p), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote (c)(2).

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2134. Trust indenture to secure bonds or notes; provisions protecting holders; expenses treated as operating expenses.

(a) *Authority.* — The Agency may secure bonds, notes, or other obligations by a trust indenture between the Agency and a corporate trustee which has the authority to exercise corporate trust powers within the District.

* * * * *

(Apr. 20, 1999, D.C. Law 12-247, § 2(q), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 in (a), substituted "bonds, notes, or other obligations" for "bonds or notes" and substituted "authority to exercise corporate trust powers" for "power of a trust company."

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2135. Agency's purchase of its own bonds and notes; maximum price.

Subject to pre-existing agreements with the holders of bonds, notes, or other obligations, the Agency may purchase its own bonds, notes, or other obligations which may then be cancelled upon such terms and conditions as established by the Agency.

(1) If the bonds, notes, or other obligations are redeemable, the price cannot exceed the redemption price then applicable plus accrued interest to the next interest payment; or

(2) If the bonds, notes, or other obligations are not redeemable, the price cannot exceed the redemption price applicable on the 1st date after the purchase upon which the bonds, notes or other obligations become subject to redemption plus accrued interest to that date. (1973 Ed., § 45-1920; Mar. 3, 1979, D.C. Law 2-135, § 405, 25 DCR 5008; Apr. 20, 1999, D.C. Law 12-247, § 2(r), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

§ 45-2138. Faith and credit and taxing power of District not pledged on obligation; statement thereto.

Bonds, notes, and other obligations issued under the provisions of this chapter do not constitute an obligation of the District, but are payable solely from the revenues or assets of the Agency. Each bond, note, or other obligation issued under this chapter must contain on its face a statement that the Agency is not obligated to pay principal or interest except from the revenues or assets pledged and that neither the faith and credit nor the taxing power of the District is pledged to the payment of the principal or interest on a bond, note, or other obligation. (1973 Ed., § 45-1923; Mar. 3, 1979, D.C. Law 2-135, § 408, 25 DCR 5008; Apr. 20, 1999, D.C. Law 12-247, § 2(s), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

Subchapter V. Public Accountability.

§ 45-2152. Advisory Committees.

The Agency, from time to time, may establish advisory committees or groups to advise the Agency with respect to matters the Agency shall designate and may appoint persons to serve on such advisory committees or groups as the Agency may deem necessary consistent with the provisions of this chapter. The function of such committees or groups shall be solely advisory in nature, and no such committee or group shall have authority to act for, or on behalf, of the Agency. (1973 Ed., § 45-1928; Mar. 3, 1979, D.C. Law 2-135, § 502, 25 DCR 5008; Aug. 5, 1981, D.C. Law 4-28, § 2(u), 28 DCR 2848; Apr. 20, 1999, D.C. Law 12-247, § 2(t), 46 DCR 1100.)

Effect of amendments. — D.C. Law 12-247 rewrote the section.

Legislative history of Law 12-247. — See note to § 45-2101.

CHAPTER 22. HOME PURCHASE ASSISTANCE FUND.

Subchapter I. General Provisions.

Subchapter II. Step Up Program.

Subchapter I. General Provisions.

Editor's notes. — Because of the enactment of subchapter II of this chapter by D.C. Law 12-266, the preexisting text of Chapter 22, consisting of §§ 45-2201 though 45-2205, has been designated as subchapter I of the chapter.

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§ 45-2201. Establishment; purpose; unexpended balance.

There is hereby established in the District of Columbia and there is authorized, and accounted for in the General Fund as a separate revenue source allocable to provide financial assistance to low and moderate income persons and families seeking to purchase homes in the District of Columbia, for the purposes of enabling them to purchase decent, safe, and sanitary homes in the District of Columbia. Any unexpended balance at the end of the year shall be reserved as a restricted fund balance and used to provide authorization to expend for subsequent years subject to the direction of the Mayor. (1973 Ed., § 45-1801; Sept. 12, 1978, D.C. Law 2-103, § 2, 25 DCR 1977; June 14, 1980,

D.C. Law 3-70, § 7(1), 27 DCR 1776; Oct. 24, 1981, D.C. Law 4-44, § 2(b), 28 DCR 4265; Sept. 23, 1986, D.C. Law 6-151, § 2(a), 33 DCR 4783; June 11, 1992, D.C. Law 9-118, § 8(a), 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-259, § 2(a), 46 DCR 1316.)

Effect of amendments. — D.C. Law 12-60, in the first sentence, deleted "and District of Columbia government employees participating in the District of Columbia Employer-Assisted Housing Program" following "lower and moderate incomes."

D.C. Law 12-259 substituted "low and moderate income persons and families seeking to purchase homes in the District of Columbia" for "the residents of the District of Columbia of lower and moderate incomes."

Legislative history of Law 12-60. — Law 12-60, the "Fiscal Year 1998 Revised Budget Support Act of 1997" was introduced in Council and assigned Bill No. 12-353, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on September 8, 1997, and October 7, 1997, respectively. Signed by the Mayor on October 24, 1997, it was assigned Act No. 12-191 and transmitted to both Houses of Congress for its review. D.C. Law 12-60 became effective on March 20, 1998.

Legislative history of Law 12-259. — Law 12-259, the "Home Purchase Assistance Fund Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-617, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-611 and transmitted to both Houses of Congress for its review. D.C. Law 12-259 became effective on April 20, 1999.

Repeal of Law 9-118. — Section 1101 of D.C. Law 12-60 repealed the District of Columbia Employer-Assisted Housing Act of 1992, D.C. Law 9-118.

§ 45-2202. Deposits to credit of Fund.

There shall be deposited to the credit of the Fund such amounts as may be appropriated pursuant to this subchapter; grants and gifts from public and private sources to the Fund or to the District of Columbia for the purposes of the Fund; repayments of principal and any interest on loans provided from the Fund; proceeds realized from the liquidation of any security interests held by the District of Columbia under the terms of any assistance provided from the Fund; interest earned from the deposit or investment of monies of the Fund; and all other revenues, receipts and fees of whatever nature derived from the operation of the Fund. (1973 Ed., § 45-1802; Sept. 12, 1978, D.C. Law 2-103, § 3, 25 DCR 1977; June 11, 1992, D.C. Law 9-118, § 8(b), 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Effect of amendments. — D.C. Law 12-60 deleted "repayments of principal and any interest on loans provided under the District of Columbia Government Employer-Assisted Housing Program" preceding "and all other revenues, receipts and fees."

Legislative history of Law 12-60. — See note to § 45-2201.

Repeal of Law 9-118. — Section 1101 of D.C. Law 12-60 repealed the District of Columbia Employer-Assisted Housing Act of 1992, D.C. Law 9-118.

Editor's notes. — Because of the enactment of subchapter II of this chapter by D.C. Law 12-266, "subchapter" has been substituted for "chapter" in the second sentence of (a).

§ 45-2203. Availability; use prescribed by Mayor.

The Fund shall be available without fiscal year limitation for the purpose of providing financial assistance for down payments or interim financing to recipients for the purpose of purchasing or securing housing, including, but not limited to, single family homes, condominium units, or occupancy rights to cooperative housing in the District of Columbia as their principal place of residence. Under terms and conditions prescribed by the Mayor of the District

of Columbia ("Mayor"), the Fund shall be used for making loans and providing other forms of financial assistance. The assistance provided pursuant to the Fund may be used in conjunction with other available home assistance programs. (1973 Ed., § 45-1803; Sept. 12, 1978, D.C. Law 2-103, § 4, 25 DCR 1977; Oct. 24, 1981, D.C. Law 4-44, § 2(c), 28 DCR 4265; June 11, 1992, D.C. Law 9-118, § 8(c), 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Effect of amendments. — D.C. Law 12-60, in the first sentence, deleted "and District of Columbia government employees eligible under the District of Columbia Employer-Assisted Housing Program, to purchase a home in the District of Columbia" following "principal place of residence."

Legislative history of Law 12-60. — See note to § 45-2201.

Repeal of Law 9-118. — Section 1101 of D.C. Law 12-60 repealed the District of Columbia Employer-Assisted Housing Act of 1992, D.C. Law 9-118.

§ 45-2204. Promulgation of rules and regulations by Mayor; review by Council; contents of loan agreements.

(a) The Mayor is authorized to promulgate rules and regulations to govern the operation of the Fund, including but not limited to, rules and regulations establishing standards for determining the eligibility and selection of applicants; procedures for applying for assistance and for notifying applicants (including the development of appropriate forms); and criteria for determining the terms and conditions under which loans or other forms of financial assistance may be made from the Fund which, among things, shall reflect the ability of the recipient to pay and may provide for the deferred payment or forgiveness of loans. The rules and regulations issued by the Mayor for the purpose of implementing the provisions of this subchapter shall be submitted by the Mayor to the Council of the District of Columbia for a 45 calendar day review period, excluding days of Council recess. No such rules or regulations shall take effect until the end of the 45 calendar day period beginning on the day such rules or regulations are transmitted by the Mayor to the Chairman of the Council, and then only if during such period, the Council does not adopt a resolution disapproving such rules and regulations in whole or in part.

(b) Any loan agreement entered into pursuant to such rules and regulations shall provide that:

(1) All applicants for and recipients of financial assistance from the Funds shall be tenant organizations (as defined in § 45-1603(18)) or a first time homebuyer seeking to purchase housing in the District of Columbia as a primary residence including, but not limited to, single family homes, condominium units, or occupancy rights to cooperative housing. For the purposes of this section, the term "first time homebuyer" means a real property purchaser who had no ownership interest in his or her principal residence at any time during the 3 year period ending on the date of his or her application for assistance, but including an applicant who has divorced or separated during the 3 year period where a formal settlement has been made under which the applicant does not receive an ownership interest in a primary residence which had been jointly owned, and who has no other current ownership interest in residential real property.

(1A) Priority in the allocation of assistance under the Fund shall be given to residents of the District of Columbia and District of Columbia residents who are low income, elderly , handicapped, disabled, or displaced applicants.

(2) If the home purchased ceases to be the primary residence of the recipient of financial assistance from the Fund, the payments to such Fund by the recipient shall be accelerated on terms and conditions prescribed by the Mayor; provided, that such obligation shall not be inconsistent with the applicable law or regulations of any federal home purchase assistance program made available to the recipient.

(3) Repealed. (1973 Ed., § 45-1804; Sept. 12, 1978, D.C. Law 2-103, § 5, 25 DCR 1977; Oct. 24, 1981, D.C. Law 4-44, § 2(d), 28 DCR 4265; Sept. 23, 1986, D.C. Law 6-151, § 2(b), 33 DCR 4783; Apr. 20, 1999, D.C. Law 12-259, § 2(b), 46 DCR 1316.)

Effect of amendments. — D.C. Law 12-259, in (b), rewrote (1), inserted (1A), and repealed (3).

Legislative history of Law 12-259. — See note to § 2201.

Home Purchase Assistance Program Loan Repayment Resolution of 1998. — Pursuant to Resolution 12-(PR12-890), effective October 7, 1998, the Council approved the amendment of Chapter 25 of the Home Purchase Assistance Program Regulations to authorize the use of loan repayment funds to pay reasonable administrative costs associated with making loans.

Editor's notes. — Because of the enactment of subchapter II of this chapter by D.C. Law 12-266, "subchapter" has been substituted for "chapter" in the second sentence of (a).

Subchapter II. Step Up Program.

§ 45-2211. Definitions.

For the purpose of this subchapter, the term:

(1) "Closing costs" means expenses in addition to the purchase price of the property which must be paid by the purchaser or deducted from the proceeds of the sale to the seller at time of closing.

(2) "Department" means the Department of Housing and Community Development.

(3) "Downpayment" means the unamortized amount paid by the purchaser at closing, which when added to the mortgage amount equals the total sale price.

(4) "Earnest money contract" means a contract created between the buyer and seller when the buyer makes a deposit to indicate both the ability and good faith intention to complete the purchase of a property. If the contract is fulfilled, then the earnest money deposit is applied toward the purchase price.

(5) "Fund" means the Home Purchase Assistance Step Up Fund.

(6) "Household" means an individual or 2 or more persons who reside together in a housing unit in the District.

(7) "Single family home" means a housing unit designed and maintained for occupancy by only one family. (Apr. 27, 1999, D.C. Law 12-266, § 2, 46 DCR 948.)

Legislative history of Law 12-266. — Law 12-266, the "Home Purchase Assistance Step Up Fund Act of 1998," was introduced in Council and assigned Bill No. 12-661, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 23, 1998, it was assigned Act No. 12-574 and transmitted to both Houses

of Congress for its review. D.C. Law 12-266 became effective on April 27, 1999.

§ 45-2212. Establishment; funding; annual audit.

(a) There is established in the Department of Housing and Community Development, a Home Purchase Assistance Step Up Program to provide one-time housing assistance to residents of the District of Columbia in low- to moderate- income households, who own condominiums, cooperatives, or starter homes and seek to purchase single family housing in the District of Columbia that is larger, or otherwise more appropriate for their households.

(b) There is authorized to be appropriated from the general revenues of the District of Columbia, and accounted for in the General Fund as a separate revenue source, such amounts as may be needed to establish a permanent revolving fund to be known as the Home Purchase Assistance Step Up Fund. From this Fund the District shall provide financial assistance to residents of the District of Columbia in low- to moderate- income households, who own condominiums, cooperatives, or starter homes and seek to purchase single family housing in the District of Columbia.

(c) There shall be deposited to the credit of the Fund any amounts as may be appropriated pursuant to this subchapter; any grants and gifts from public and private sources to the Fund or to the District of Columbia government for the purposes of the Fund; repayments of principal and any interest on loans provided from the Fund; any proceeds realized from the liquidation of any security interests held by the District under the terms of any assistance provided from the Fund; any interest earned from the deposit or investment of monies of the Fund; and all other revenues, receipts, penalties, and fees of whatever nature derived from the operation of the Fund.

(d) The Fund shall be available, without fiscal limitation, to provide financial assistance for down payments or closing costs to recipients for the purpose of purchasing a single family residence that is larger or otherwise more appropriate than the home previously owned by the recipient. Such financial assistance may be used in conjunction with other available home purchase assistance programs.

(e) An annual audit of the operations of the Fund shall be conducted by the Office of the Inspector General of the District of Columbia. Not later than 6 months after the end of the fiscal year, the Mayor shall submit to the Congress and to the Council of the District of Columbia a report on the financial condition of the Fund and the results of the operations for such fiscal year. (Apr. 27, 1999, D.C. Law 12-266, § 3, 46 DCR 948.)

Legislative history of Law 12-266. — See note to § 45-2211.

§ 45-2213. Eligibility.

(a) An applicant shall be eligible for the Home Purchase Assistance Step Up Program if the applicant:

(1) Is a District of Columbia resident;

(2) Is the head of the household and will occupy the property to be purchased with assistance from the program as his or her primary residence;

(3) Has a satisfactory credit rating as shall be defined by rules deemed necessary to carry out the purposes of this subchapter;

(4) Has adequate income to qualify for a mortgage from a private lender;

(5) Has sold or otherwise disposed of all interests in any other real property before the closing of any loan under this subchapter;

(6) Has insufficient assets to pay the down payment or reasonable closing costs, or both, without assistance from this program;

(7) Would have liquid assets not exceeding the limit established by the Mayor by rulemaking, after purchasing property under this subchapter or through this program; and

(8) Meets qualifying income levels as provided by regulation.

(b) Property shall be eligible for the Home Purchase Assistance Step Up Program if the property:

(1) Is an existing single family residence in the District of Columbia;

(2) Meets the requirements of the Construction Codes promulgated pursuant to the Construction Codes Approval and Amendments Act of 1980, effective February 2, 1987 (D.C. Law 6-216; 12 DCMR) and the Housing Regulations of the District of Columbia, effective August 11, 1955 (C.O. 55-1503; 14 DCMR Chapters 1-14); and

(3) Has a purchase price that neither exceeds the maximum price requirement established by rulemaking nor the appraised value of the property. (Apr. 27, 1999, D.C. Law 12-266, § 4, 46 DCR 948.)

Legislative history of Law 12-266. — See note to § 45-2211.

§ 45-2214. Assistance.

(a) Assistance available pursuant to this subchapter is limited to a one-time loan of up to $15,000 with a maximum 20-year amortized term.

(b) The interest rate shall be 3%, unless otherwise provided by the Mayor by rulemaking.

(c) The Mayor shall establish underwriting guidelines, including loan amounts and repayment terms, by rulemaking. (Apr. 27, 1999, D.C. Law 12-266, § 5, 46 DCR 948.)

Legislative history of Law 12-266. — See note to § 45-2211.

§ 45-2215. Rulemaking.

The Mayor is authorized to promulgate rules to govern the operation of the Fund, including but not limited to, rules establishing eligibility requirements for applicants and homes and for establishing operating procedures for the program. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by subchapter I of Chapter 15 of Title 1. (Apr. 27, 1999, D.C. Law 12-266, § 6, 46 DCR 948.)

Legislative history of Law 12-266. — See note to § 45-2211.

§ 45-2216. Applicability.

The provisions of this subchapter shall apply to the purchase of a single family home for which an earnest money contract is dated after April 1, 1999. (Apr. 27, 1999, D.C. Law 12-266, § 7, 46 DCR 948.)

Legislative history of Law 12-266. — See note to § 45-2211.

CHAPTER 22A. GOVERNMENT EMPLOYER-ASSISTED HOUSING.

Sec.
45-2221 to 45-2226. [Repealed].

§ 45-2221. Definitions.

Repealed.

(June 11, 1992, D.C. Law 9-118, § 2, 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Legislative history of Law 12-60. — See note to 45-2201.
Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

§ 45-2222. Establishment.

Repealed.

(June 11, 1992, D.C. Law 9-118, § 3, 39 DCR 3189; Oct. 8, 1993, D.C. Law 10-63, § 6(a), 40 DCR 7344; Feb. 23, 1993, D.C. Law 10-70, § 8(a), 40 DCR 7575; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Legislative history of Law 12-60. — See note to 45-2201.
Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

§ 45-2223. Eligibility.

Repealed.

(June 11, 1992, D.C. Law 9-118, § 4, 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Legislative history of Law 12-60. — See note to 45-2201.
Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

§ 45-2224. Employee savings; District government contribution.

Repealed.

(June 11, 1992, D.C. Law 9-118, § 5, 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Legislative history of Law 12-60. — See note to 45-2201.

Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

§ 45-2225. Deferred payment loan.

Repealed.

(June 11, 1992, D.C. Law 9-118, § 6, 39 DCR 3189; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Legislative history of Law 12-60. — See note to 45-2201.

Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

§ 45-2226. Assistance available for Metropolitan police officers.

Repealed.

(June 11, 1992, D.C. Law 9-118, § 6a as added Oct. 8, 1993, D.C. Law 10-63, § 6(b), 40 DCR 7344 and Feb. 23, 1994, D.C. Law 10-70, § 8(b), 40 DCR 7575; Mar. 20, 1998, D.C. Law 12-60, § 1101, 44 DCR 7378.)

Legislative history of Law 12-60. — See note to 45-2201.

Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

CHAPTER 22B. METROPOLITAN POLICE HOUSING ASSISTANCE AND COMMUNITY SAFETY PROGRAM.

§ 45-2231. Definitions.

District of Columbia Government Metropolitan Police Housing Assistance Program and Community Safety Act Rulemaking Approval Resolution of 1997. — Proposed Regulation 12-0262, the "District of Columbia Government Metropolitan Police Housing Assistance Program and Community Safety Act Rulemaking Approval Resolution of 1997" was deemed approved, effective July 5, 1997.

CHAPTER 25. RENTAL HOUSING.

Subchapter I. Findings; Purposes; Definitions.

§ 45-2501. Findings.

Cited in Lenkin Co. Mgt., Inc. v. District of Columbia Rental Hous. Comm'n, App. D.C., 677 A.2d 46 (1996); Kapusta v. District of Columbia Rental Hous. Comm'n, App. D.C., 704 A.2d 286 (1997).

§ 45-2502. Purposes.

Cited in Cowan v. Youssef, App. D.C., 687 A.2d 594 (1996).

§ 45-2503. Definitions.

Rental Housing Commission's interpretation is controlling. — In reviewing the construction of a statute by the agency charged with its interpretation and enforcement, the agency's interpretation is controlling unless it is plainly erroneous or inconsistent with the statute. Slaby v. District of Columbia Rental Hous. Comm'n, App. D.C., 685 A.2d 1166 (1996), cert. denied, 520 U.S. 1190, 117 S. Ct. 1478, 137 L. Ed 2d 690 (1997).

Sublessor expenses cannot increase rent. — Under paragraph (28), sublessor could make her tenants individually responsible for their utilities and repairs associated with the rental units, but she could not bear those expenses herself and pass them on in the form of rent. Slaby v. District of Columbia Rental Hous. Comm'n, App. D.C., 685 A.2d 1166 (1996), cert. denied, 520 U.S. 1190, 117 S. Ct. 1478, 137 L. Ed 2d 690 (1997).

"Rent refund." — The Rental Housing Commission's order that a landlord pay a "rent refund" based on the amount of money the landlord had demanded in excess of the rent ceiling but had never received, comported with the language of the Rental Housing Act. Kapusta v. District of Columbia Rental Hous. Comm'n, App. D.C., 704 A.2d 286 (1997).

Cited in Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998).

Subchapter II. Rent Stabilization Program.

§ 45-2511. Continuation of Rental Housing Commission; composition; appointment; qualifications; compensation; removal.

* * * * *

(c) The Chairperson of the Rental Housing Commission shall receive annual compensation equivalent to that received by a District employee compensated at a grade 16 of the District schedule established under subchapter XII of Chapter 6 of Title 1 ("District schedule"). The other members of the Rental Housing Commission shall receive annual compensation equivalent to that received by a District employee at a grade 15 pursuant to the District schedule.

* * * * *

(Apr. 20, 1999, D.C. Law 12-248, § 2, 46 DCR 1113.)

Section references.
This section is referred to in § 1-633.7.
Effect of amendments.
D.C. Law 12-248 rewrote (c).
Legislative history of Law 12-248. — Law 12-248, the "Compensation Increase for the Chairperson of the Rental Housing Commission Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-707, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-587 and transmitted to both Houses of Congress for its review. D.C. Law 12-248 became effective on April 20, 1999.

§ 45-2512. Powers and duties of Rental Housing Commission.

(a) The Rental Housing Commission shall:

(1) Issue, amend, and rescind rules and procedures for the administration of this chapter;

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 51(a), 44 DCR 1271.)

Effect of amendments. — Section 51(a) of D.C. Law 11-255 validated previously made changes in (a)(1).
Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

§ 45-2513. Rental Accommodations and Conversion Division.

Section references. — This section is referred to in § 1-2295.27.
Cited in Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998).

§ 45-2514. Duties of the Rent Administrator.

Cited in Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998); Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-2515. Registration and coverage.

(a) Sections 45-2515(f) through 45-2529, except § 45-2527, shall apply to each rental unit in the District except:

* * * * *

(3) Any rental unit in any housing accommodation of 4 or fewer rental units, including any aggregate of 4 rental units whether within the same structure or not, provided:

* * * * *

(C) The housing provider of the housing accommodation files with the Rent Administrator a claim of exemption statement which consists of an oath or affirmation by the housing provider of the valid claim to the exemption. The claim of exemption statement shall also contain the signatures of each person having an interest, direct or indirect, in the housing accommodation. Any change in the ownership of the exempted housing accommodation or change in the housing provider's interest in any other housing accommodation which would invalidate the exemption claim must be reported in writing to the Rent Administrator within 30 days of the change;

(D) The limitation of the exemption to a housing accommodation owned by natural persons shall not apply to a housing accommodation owned or controlled by a decedent's estate or testamentary trust if the housing accommodation was, at the time of the decedent's death, already exempt under the terms of paragraphs (3)(A) and (3)(B) of this subsection; and

* * * * *

(c) Notwithstanding subsections (b)(1) and (b)(2) of this section the housing provider shall be entitled to an exemption whenever the unit is next vacated in accordance with subsections (a)(9) and (a)(10)(A) of this section after an intervening loss of the exemption.

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 51(b), 44 DCR 1271.)

Effect of amendments. — Section 51(b) of D.C. Law 11-255 validated previously made changes in (a)(3)(C) and (D).

Legislative history of Law 11-255. — See note to § 45-2512.

§ 45-2516. Rent ceiling.

Rental Housing Commission's interpretation is controlling. — In reviewing the construction of a statute by the agency charged with its interpretation and enforcement, the agency's interpretation is controlling unless it is plainly erroneous or inconsistent with the statute. Slaby v. District of Columbia Rental Hous. Comm'n, App. D.C., 685 A.2d 1166

(1996), cert. denied, 520 U.S. 1190, 117 S. Ct. 1478, 137 L. Ed 2d 690 (1997).

Sublessor expenses cannot increase rent. — Under § 45-2503(28), sublessor could make her tenants individually responsible for their utilities and repairs associated with the rental units, but she could not bear those expenses herself and pass them on in the form of rent. Slaby v. District of Columbia Rental Hous. Comm'n, App. D.C., 685 A.2d 1166 (1996), cert. denied, 520 U.S. 1190, 117 S. Ct. 1478, 137 L. Ed 2d 690 (1997).

Effect of subdivision (e). — Subdivision (e) of this section, in effect, bars any investigation of the validity of rent levels, or of adjustments in either the rent levels or rent ceilings, in place more than three years prior to the date of the filing of a tenant petition, and thus treats them as unchallengeable. Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998).

Cited in Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-2517. Adjustments in rent ceiling.

Cited in Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998).

§ 45-2520. Petitions for capital improvements.

Cited in Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998).

§ 45-2521. Services and facilities.

Rent capped absent "substantial increase" in related services or facilities. — Although sublessor's landlord could request an increase in the rent ceiling upon a showing of "substantial increase" in the related services or facilities he provided, absent such increase, however, the rent sublessor could charge was capped at the rent charged by her landlord. Slaby v. District of Columbia Rental Hous. Comm'n, App. D.C., 685 A.2d 1166 (1996), cert. denied, 520 U.S. 1190, 117 S. Ct. 1478, 137 L. Ed 2d 690 (1997).

§ 45-2522. Hardship petition.

Cited in Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-2525. Voluntary agreement.

Voluntary agreement approved by rent administrator becomes part of modified lease. — A voluntary agreement entered into between a landlord and tenants is not a contract separate from a lease but, once approved by the rent administrator, becomes an integral part of a now-modified lease, and the two must be read in a manner that gives meaning to all of their terms. Cowan v. Youssef, App. D.C., 687 A.2d 594 (1996).

Rent abatement may be awarded as damages for breach of a voluntary agreement. Cowan v. Youssef, App. D.C., 687 A.2d 594 (1996).

Common law remedies available. — Tenants are not limited to administrative remedies for breach of a voluntary agreement; rather, they may pursue a common law breach of contract claim. Cowan v. Youssef, App. D.C., 687 A.2d 594 (1996).

§ 45-2526. Adjustment procedure.

Cited in Kennedy v. District of Columbia Rental Hous. Comm'n, App. D.C., 709 A.2d 94 (1998).

§ 45-2529. Judicial review.

Cited in Kapusta v. District of Columbia Rental Hous. Comm'n, App. D.C., 704 A.2d 286 (1997).

§ 45-2529.2. Certificate of assurance.

* * * * *

(b) The certificate of assurance shall provide that in the event that any rental unit in any housing accommodation then existing or thereafter constructed on the property covered by the certificate is ever made subject to §§ 45-2515(f) through 45-2529, or any future District of Columbia law limiting the amount of rent which a housing provider can lawfully demand or receive from a tenant, the owner of the property shall have the right to recover annually from the District of Columbia for so long as the property is used as a housing accommodation, in accordance with subsection (c) of this section, the difference between the annual fair market rental amount and the annual amount of rent that the owner of the property actually receives from the tenants in the housing accommodation. The certificate of assurance shall be executed by the Mayor and the recipient and shall obligate the recipient to use the recipient's best efforts to construct a housing accommodation as expeditiously as possible on the property which is the subject thereof if there does not then exist a housing accommodation on the property. Each certificate of assurance shall provide that it shall become null and void in the event that a housing accommodation is not constructed on the property within 5 years of the issuance thereof and shall contain the definitions set forth in § 45-2503(1) and (3). The certificate of assurance shall be an irrevocable agreement in recordable form and constitute a covenant running with the land. The Mayor shall review the proposed form of the certificate of assurance with Council's Committee on Consumer and Regulatory Affairs prior to its first use to ensure that the form will be legal, valid and enforceable, contain the terms provided for herein, and otherwise further its intended purpose of stimulating the addition of rental units to the District's housing stock.

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 51(c), 44 DCR 1271.)

Effect of amendments. — D.C. Law 11-255 validated previously made changes in (b).

Legislative history of Law 11-255. — See note to § 45-2512.

Subchapter III. Tenant Assistance Program.

§ 45-2537. Termination of eligibility.

* * * * *

(c)(1) Notwithstanding any other provision of this subchapter, after September 30, 1996, all tenants receiving tenancy assistance shall avail themselves of all opportunities to receive Section 8 or public housing assistance in lieu of tenant assistance.

(2) A tenant who fails to observe the mandates of paragraph (1) of this subsection shall be deemed ineligible for tenant assistance and assistance will be terminated pursuant to subsection (b) of this section. (July 17, 1985, D.C. Law 6-10, § 307, 32 DCR 3089; Apr. 9, 1997, D.C. Law 11-198, § 403, 43 DCR 4569.)

Effect of amendments. — D.C. Law 11-198 added (c).

Temporary amendment of section. — Section 403 of D.C. Law 11-226 added (c).

Section 1201(b) of D.C. Law 11-226 provided that the act shall expire after 225 days of its having taken effect, or upon the effective date of the Fiscal year 1997 Budget Support Amendment Act of 1996, whichever occurs first.

Emergency act amendments. — For temporary amendment of section, see § 403 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), § 403 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and § 403 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

Legislative history of Law 11-198. — Law 11-198, the "Fiscal Year 1997 Budget Support Act of 1996," was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

Legislative history of Law 11-226. — Law 11-226, the "Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-896. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-453 and transmitted to both Houses of Congress for its review. D.C. Law 11-226 became effective on April 9, 1997.

Subchapter V. Evictions; Retaliatory Action.

§ 45-2551. Evictions.

* * * * *

(c) A housing provider may recover possession of a rental unit where a court of competent jurisdiction has determined that the tenant, or a person occupying the premises with or in addition to the tenant, has performed an illegal act within the rental unit or the housing accommodation. The housing provider shall serve on the tenant a 30-day notice to vacate. The tenant may be evicted only if the tenant knew or should have known that an illegal act was taking place.

* * * * *

(k-1) Subsection (k) shall not apply:

* * * * *

(3) Where a court of competent jurisdiction has made a specific finding that the tenant has abandoned the premises.

* * * * *

(Apr. 29, 1998, D.C. Law 12-86, § 901, 45 DCR 1172.)

Effect of amendments.

D.C. Law 12-86 rewrote (c); and added (k-1)(3).

Temporary amendment of section. — Section 4 of D.C. Law 12-125 added (k-1)(3).

Section 6(b) of D.C. Law 12-125 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments.

For temporary amendment of section, see § 3 of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

For temporary amendment of section, see § 4 of the Real Property Tax Reassessment Second Emergency Act of 1997 (D.C. Act 12-244, January 13, 1998, 45 DCR 652).

Section 6 of D.C. Act 12-244 provided for application of the act.

For temporary amendment of section, see § 4 of the Real Property Tax Reassessment Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-293, February 27, 1998, 45 DCR 1758).

Section 6 of D.C. Act 12-293 provided for the application of the act.

For temporary amendment of section, see § 4 of the Real Property Tax Reassessment and Cold Weather Eviction Emergency Amendment Act of 1999 (D.C. Act 13-18, February 17, 1999, 46 DCR 2354).

Legislative history of Law 12-86. — Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

Legislative history of Law 12-125. — Law 12-125, the "Real Property Tax Reassessment Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-473. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act No. 12-275 and transmitted to both Houses of Congress for its review. D.C. Law 12-125 became effective on June 10, 1998.

Notice requirements inapplicable to nonpayment of rent cases. — Nonpayment of rent cases are excluded from the notice requirements of this section. Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

Notice held valid. — A notice to quit that expired 30 days after the day of service of the notice served on a tenant in sufferance for nonpayment of rent was valid; tenant was not entitled to the notice provisions of the Rental Housing Act. Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

§ 45-2552. Retaliatory action.

Statutory presumption.

This statute mandates that the trier of fact shall presume retaliatory action has been taken and shall enter judgment in the tenant's favor unless the landlord has met his statutory burden of proof. Youssef v. United Mgt. Co., App. D.C., 683 A.2d 152 (1996).

Burden of proof.

The Rental Housing Act does not require a tenant who meets the requisite conditions to substantiate retaliatory eviction; it is the landlord's burden to prove the eviction was not retaliatory. Youssef v. United Mgt. Co., App. D.C., 683 A.2d 152 (1996).

The landlord is required to overcome the presumption of retaliation by clear and convincing evidence. Youssef v. United Mgt. Co., App. D.C., 683 A.2d 152 (1996).

Evidence sufficient to establish statutory presumption. — Eviction of tenants was reversed where the tenants were not accorded the protection of the presumption to which they were entitled under subsection (b) where they had presented sufficient evidence to bring them within the protection of the stated and they presented evidence to prove a retaliatory motive underlying the eviction. Youssef v. United Mgt. Co., App. D.C., 683 A.2d 152 (1996).

Subchapter V-A. Residential Drug-Related Evictions.

§ 45-2559.1. Definitions.

For the purposes of this subchapter, the term:

* * * * *

(2) "Drug haven" means a housing accommodation, or land appurtenant to or common areas of a housing accommodation where drugs are illegally stored, manufactured, used, or distributed.

* * * * *

(13) "Civic association" means:

(A) A nonprofit association, corporation, or other organization that is:

(i) Comprised of residents of a community within which a nuisance is located;

(ii) Operated exclusively for the promotion of social welfare and general neighborhood improvement and enhancement; and

(iii) Exempt from taxation pursuant to section 501(c)(3) or (4) of the Internal Revenue Code; or

(B) A nonprofit association, corporation, or other organization that is:

(i) Comprised of residents of a contiguous community that is defined by specific geographic boundaries, within which a nuisance is located; and

(ii) Operated for the promotion of the welfare, improvement, and enhancement of that community.

(14) "Community association" means:

(A) A nonprofit association, corporation, or other organization that is:

(i) Comprised of residents of a community within which a nuisance is located;

(ii) Operated exclusively for the promotion of social welfare and general neighborhood improvement and enhancement; and

(iii) Exempt from taxation pursuant to section 501(c)(3) or (4) of the Internal Revenue Code; or

(B) A nonprofit association, corporation, or other organization that is:

(i) Comprised of residents of a contiguous community that is defined by specific geographic boundaries, within which a nuisance is located; and

(ii) Operated for the promotion of the welfare, improvement, and enhancement of that community.

(15) "Controlled dangerous substance" means any of the controlled substances as defined in § 33-514(1) and (2).

(16) "Nuisance" means a property that is used:

(A) By persons who assemble for the specific purpose of illegally using a controlled dangerous substance;

(B) For the illegal manufacture or distribution of:

(i) A controlled dangerous substance; or

(ii) Drug paraphernalia, as defined in § 33-601(3); or

(C) For the illegal storage or concealment of a controlled dangerous substance in sufficient quantity to reasonably indicate under all the circumstances an intent to manufacture, distribute, or dispense:

(i) A controlled dangerous substance; or

(ii) Drug paraphernalia, as defined in § 33-601(3). (June 13, 1990, D.C. Law 8-139, § 2, 37 DCR 2645; Apr. 9, 1997, D.C. Law 11-176, § 2(a), 43 DCR 4234.)

Effect of amendments. — D.C. Law 11-176 deleted "during the 180-day period that precedes the time that an action is commenced pursuant to this subchapter" from the end of (2); and added (13) through (16).

Temporary amendment of section. — Section 2 of D.C. Law 12-158 amended (15) to read as follows:

"For the purposes of this subchapter, the term:

*****

"(15) 'Controlled dangerous substance' means any of the controlled substances as defined in § 33-501(4)."

Section 4(b) of D.C. Law 12-158 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

For temporary amendment of section, see § 2 of the Abatement of Controlled Dangerous Substances Nuisances Emergency Amendment Act of 1998 (D.C. Act 12-376, June 5, 1998, 45 DCR 4461), § 2 of the Abatement of Controlled Dangerous Substances Nuisances Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-424, July 31, 1998, 45 DCR 5680), and § 2 of the Abatement of Controlled Dangerous Substances Nuisances Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-513, November 18, 1998, 45 DCR 9047).

Legislative history of Law 11-176. — Law 11-176, the "Abatement of Controlled Dangerous Substances Nuisance Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-070, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 4, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-326 and transmitted to both Houses of Congress for its review. D.C. Law 11-176 became effective an April 9, 1997.

Legislative history of Law 12-158. — Law 12-158, the "Abatement of Controlled Dangerous Substances Nuisance Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-643, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1998, and June 2, 1998, respectively. Signed by the Mayor on June 17, 1998, it was assigned Act No. 12-385 and transmitted to both Houses of Congress for its review. D.C. Law 12-158 became effective on October 7, 1998.

References in text. — "Section 501(c)(3) or (4) of the Internal Revenue Code," referred to in (13) and (14), is codified at 26 U.S.C. § 501(c)(3) and (4).

§ 45-2559.2. Action for possession of rental unit used as a drug haven.

(a) Notwithstanding any provision of § 16-1501 or § 45-2551, a housing provider may commence an action in the Landlord and Tenant Branch of the Civil Division of the Superior Court ("Court") to recover possession of a rental unit or the Mayor may commence an action in the Court to evict a tenant or occupant in a rental unit. The following persons may commence an action to abate a nuisance in the Court: the Mayor, the United States Attorney for the District of Columbia, the civic association within whose boundaries the nuisance is located, or the community association within whose boundaries the nuisance is located. The recovery or eviction shall be ordered if the Court has determined, by a preponderance of the evidence, that the rental unit is a drug haven or that a nuisance exists. In making the determination that the rental unit is a drug haven or that a nuisance exists, the Court shall consider:

(1) Whether a tenant or occupant of the rental unit has been charged with a violation of Chapter 5 of Title 33, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1242; 21 U.S.C. 801 *et seq.*), due to activities that occurred within the housing accommodation that contains the rental unit, or has violated a term of parole or probation for a previous conviction under Chapter 5 of Title 33, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1242; 21 U.S.C. 801 *et seq.*);

(2) Whether the rental unit has been the subject of more than 1 drug-related search or seizure that has resulted in the arrest of a tenant or occupant;

(3) Whether a firearm has been discharged within the rental unit;

(4) The testimony of any witness concerning the possession, manufacture, storage, distribution, use, or the attempted possession, manufacture, storage, distribution, or use of an illegal drug by a tenant or occupant in the housing accommodation that contains the rental unit;

(5) The general reputation of the property to corroborate testimony based on personal knowledge or observation, or evidence seized during the execution of a search and seizure warrant, provided, that this shall not, in and of itself, be sufficient to establish the existence of a drug haven or nuisance;

(6) Evidence that the drug haven or nuisance had been discontinued at the time of the filing of the complaint or at the time of the hearing, which evidence will not bar the granting of appropriate relief by the Court; or

(7) Any other relevant and admissible evidence that demonstrates that the rental unit is or is not a drug haven or nuisance.

* * * * *

(Apr. 9, 1997, D.C. Law 11-176, § 2(b), 43 DCR 4234; June 3, 1997, D.C. Law 11-274, § 19(a), 44 DCR 1232.)

Effect of amendments. — D.C. Law 11-176 rewrote (a).

D.C. Law 11-274 inserted "the United States attorney for the District of Columbia" in (a).

Emergency act amendments. — For temporary amendment of section, see § 2(b) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

Legislative history of Law 11-176. — See note to § 45-2559.1.

Legislative history of Law 11-274. — Law 11-274, the "Sex Offender Registration Act of 1996," was introduced in Council and assigned Bill No. 11-386, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-510 and transmitted to both Houses of Congress for its review. D.C. Law 11-274 became effective on June 3, 1997.

Cited in United States v. Shuler, 123 WLR 693 (Super. Ct. 1995).

§ 45-2559.3. Preliminary injunction review.

(a) After commencement of an action pursuant to § 45-2559.2 and upon request of a party, the Court shall hold a hearing to determine if a preliminary injunction should be granted to prevent a tenant from directly or indirectly maintaining a drug haven or nuisance.

* * * * *

(Apr. 9, 1997, D.C. Law 11-176, § 2(c), 43 DCR 4234.)

Effect of amendments. — D.C. Law 11-176 added "or nuisance" in (a).

Emergency act amendments. — For temporary amendment of section, see § 2(c) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

Legislative history of Law 11-176. — See note to § 45-2559.1.

§ 45-2559.4. Full hearing.

(a) Within 10 days of the issuance of the preliminary injunction, excluding Saturdays, Sundays, and legal holidays, the Court shall hold a full hearing on the merits of the eviction action. In the event a hearing for a preliminary

injunction has not been requested, the Court shall expeditiously schedule a full hearing. If it is determined by a preponderance of the evidence, after consideration of the factors set forth in § 45-2559.2, that the rental unit is a drug haven, the Court shall issue a final order that mandates one or more of the following:

(1) Eviction of the tenant or occupant within 72 hours; or

(2) Closure of the rental unit for a period of time to be decided by the Court. The Court may order the owner of the property to submit for court approval a plan of correction to ensure, to the extent reasonably possible, that the property will not again be used for a drug haven or nuisance.

* * * * *

(Apr. 9, 1997, D.C. Law 11-176, § 2(d), 43 DCR 4234.)

Effect of amendments. — D.C. Law 11-176 inserted "within 72 hours" in (a)(1); and added the last sentence in (a)(2).

Emergency act amendments. — For temporary amendment of section, see § 2(d) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

Legislative history of Law 11-176. — See note to § 45-2559.1.

§ 45-2559.5. Default judgment.

The Court shall not enter a default judgment to evict a tenant or occupant who has failed to plead or otherwise defend unless, based upon evidence presented by the plaintiff, the Court determines that the rental unit is a drug haven or nuisance. (June 13, 1990, D.C. Law 8-139, § 6, 37 DCR 2645; Apr. 9, 1997, D.C. Law 11-176, § 2(e), 43 DCR 4234.)

Effect of amendments. — D.C. Law 11-176 added "or nuisance."

Emergency act amendments. — For temporary amendment of section, see § 2(e) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

Legislative history of Law 11-176. — See note to § 45-2559.1.

§ 45-2559.7a. Court costs and attorney's fees.

The Court may award court costs and reasonable attorney's fees to a civic association, community association, or resident association that is the prevailing plaintiff in an action brought under this subchapter. (June 13, 1990, D.C. Law 8-139, § 8a; Apr. 9, 1997, D.C. Law 11-176, § 2(f), 43 DCR 4234.)

Effect of amendments. — D.C. Law 11-176 added this section.

Emergency act amendments. — For temporary addition of section, see § 2(f) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

Legislative history of Law 11-176. — See note to § 45-2559.1.

§ 45-2559.9. Availability of other remedies.

The provisions of this subchapter shall not limit the availability of other remedies under the law or other equitable relief whether or not an adequate remedy exists at law. (June 13, 1990, D.C. Law 8-139, § 10, 37 DCR 2645; Apr. 9, 1997, D.C. Law 11-176, § 2(g), 43 DCR 4234.)

Effect of amendments. — D.C. Law 11-176 rewrote the section.

Emergency act amendments. — For temporary amendment of section, see § 2(g) of the Drug House Abatement Emergency Amendment Act of 1996 (D.C. Act 11-446, December 5, 1996, 43 DCR 6664).

Legislative history of Law 11-176. — See note to § 45-2559.1.

Subchapter VII. Relocation Assistance for Tenants Displaced by Substantial Rehabilitation, Demolition, or Housing Discontinuance.

§ 45-2571. Notice of right to assistance.

Cited in Mullin v. N Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

Subchapter IX. Miscellaneous Provisions.

§ 45-2591. Penalties.

"Rent refund." — The Rental Housing Commission's order that a landlord pay a "rent refund" based on the amount of money the landlord had demanded in excess of the rent ceiling but had never received, comported with the language of the Rental Housing Act. Kapusta v. District of Columbia Rental Hous. Comm'n, App. D.C., 704 A.2d 286 (1997).

Treble damages not supported. — Findings of an absence of bad faith and the presence of special circumstances warranting no treble damages were supported by the record. There was no abuse of discretion in the agency's determination that exceptional mitigating circumstances were present which warranted no sanction of treble damages. Jerome Mgt., Inc. v. District of Columbia Rental Hous. Comm'n, App. D.C., 682 A.2d 178 (1996).

§ 45-2592. Attorney's fees.

Attorney pro se, etc.

Where a court had previously decided that a pro se attorney who had prevailed in litigation under the D.C. Rental Housing Act was presumptively entitled to attorney's fees, that decision constituted law of the case; the court declined to revisit that decision merely because of a contrary supervening interpretation by the U.S. Supreme Court of the federal civil rights statute that the D.C. court had looked to for persuasive guidance in interpreting the Rental Housing Act. Lenkin Co. Mgt., Inc. v. District of Columbia Rental Hous. Comm'n, App. D.C., 677 A.2d 46 (1996).

Attorney's fees denied. — Where the Commission determined that the equities weighed against an award of attorney's fees, there was no abuse of discretion. Jerome Mgt., Inc. v. District of Columbia Rental Hous. Comm'n, App. D.C., 682 A.2d 178 (1996).

CHAPTER 27. HOMESTEAD HOUSING PRESERVATION.

§ 45-2701. Findings.

Cited in McCulloch v. District of Columbia, App. D.C., 685 A.2d 399 (1996).

§ 45-2702. Purpose.

Temporary amendment of section. — Section 2(a) of D.C. Law 12-245 amended this section to read as follows:

"In enacting this act, the Council supports the following statutory purposes:

*****

"(2) To enable organized groups of low- and moderate-income persons to obtain skills to repair, maintain, and manage residential property;

"(3) To afford highly-motivated low- and moderate-income persons the opportunity to participate fully in the production of their own decent and affordable homes;

"(4) To facilitate community development that would create jobs for low and moderate income District of Columbia residents, as well as enhance the quality of life in residential areas by establishing businesses and other community services designed to meet the needs of the neighborhood; and

"(5) To provide nonprofit organizations and developers the opportunity to purchase property in the program in exchange for providing needed community service to District residents."

Section 5(b) of D.C. Law 12-245 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the Homestead Housing Preservation Emergency Amendment Act of 1998 (D.C. Act 12-556, January 12, 1999, 45 DCR 625).

§ 45-2703. Definitions.

Temporary amendment of section. — Sections 2(b), (c), and (d) of D.C. Law 12-245 amended this section to read as follows:

"For the purposes of this act, the term:

*****

"(1A) 'Commercial property' means income producing property as identified under zoning classifications, that would allow for such uses as office buildings, retail stores, restaurants, and service facilities pursuant to 11 DCMR Chapter 7.

"(1B) 'Community service' means reasonable and needed services to District residents for at least 10 years. Examples of reasonable and needed services include, but are not limited to, providing free food and clothing to the community; providing free shelter to the homeless on a temporary or long term basis; providing low or no-cost educational programs; providing vocational training programs for District residents with mental or physical handicaps; or providing housing for transition programs for District residents with mental of physical handicaps.

"(1C) 'Condominium or unit owners association' means an association of owners of individual units organized and incorporated in accordance with the District of Columbia Cooperative Association Act, approved June 19, 1940 (54 Stat. 480; D.C. Code § 29-1101 et seq.), for the purposes of the self government of the condominium in accordance with title III of the Condominium Act of 1976, effective March 29, 1977 (D.C. Law 1-89; D.C. Code § 45-1841 et seq.).

*****

"(4) 'Homesteader (Residential)' means an individual or an organization representing an individual who is entitled to occupy a dwelling unit in a building that is included in the Program established under § 45-2704 and who is occupying or will occupy the dwelling unit under an abatement agreement entered into between the Administrator and the individual or organization.

"(4A) 'Homesteader (Commercial)' means a nonprofit organization or developer entitled to purchase both commercial and multi-family residential property included in the program established under section 5 in exchange for providing community service to the District and maintaining ownership of that property for at least 10 years under terms of an abatement agreement entered into between the Administrator and the nonprofit organization or developer.

*****

"(12) 'Tenant association' means a condominium or cooperative housing association that represents a minimum of 51% of the households in a building, as determined by rules established by the Administrator."

Section 5(b) of D.C. Law 12-245 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(b)-(d) of the Homestead Housing Preservation Emergency Amendment Act of 1998 (D.C. Act 12-556, January 12, 1999, 45 DCR 625).

§ 45-2705. Program inventory.

Temporary amendment of section. — Section 2(e) of D.C. Law 12-245 amended (a) to read as follows:

"(a) The Mayor shall identify and publish in the D.C. Register on annual basis a list of properties, the titles to which are available for transfer under the Program. The properties shall be properties for which the statutory redemption period has lapsed. In addition to publication in the D.C. Register, the list shall be published in at least 2 major newspapers circulated in the District and through other reasonable methods determined by the Mayor and shall be transmitted to the Council, Advisory Neighborhood Commissions, Community Development Corporation, and any other organizations the Administrator deems appropriate."

Section 5(b) of D.C. Law 12-245 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(e) of the Homestead Housing Preservation Emergency Amendment Act of 1998 (D.C. Act 12-556, January 12, 1999, 45 DCR 625).

§ 45-2706. Program guidelines.

Temporary amendment of section. — Section 2(f) of D.C. Law 12-245 amended (a) to read as follows:

"(a) Proposals for large multi-family dwellings shall be considered only in accordance with the following rules of priority:

*****

"(2) If there is no proposal from a qualified tenant association or if the proposal does not meet criteria set forth in the RFP and rules promulgated pursuant to this act, proposals from condominium and cooperative housing associations shall be considered next.

"(3) If there are no proposals from condominium and cooperative housing associations or if the proposals do not meet criteria set forth in the RFP and rules promulgated pursuant to this act, proposals from nonprofit developers for the development of condominium and cooperative housing opportunities shall be considered next.

"(4) Proposals for commercial property shall be considered on a competitive basis in accordance with the following rules of priority:

"(4)(A) A proposal from a tenant or tenant association which demonstrates the ability to obtain financing shall be considered first.

"(4)(B) If there is no proposal from a qualified tenant or tenant association, or if the proposal does not meet criteria set forth in the RFP and rules promulgated pursuant to this act, proposals from condominium or cooperative associations and nonprofit developers which demonstrate the ability to obtain financing shall be considered next.

"(4)(C) If there is no proposal from a condominium or cooperative association or developer, or if the proposal does not meet criteria set forth in the RFP and rules promulgated pursuant to this act, proposals from proprietary developers shall be considered next."

Section 5(b) of D.C. Law 12-245 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(f) of the Homestead Housing Preservation Emergency Amendment Act of 1998 (D.C. Act 12-556, January 12, 1999, 45 DCR 625).

§ 45-2707. Property transfer.

Temporary amendment of section. — Section 2(g) through (j) of D.C. Law 12-245 amended this section to read as follows:

"(a) The Administrator shall sell each residential building in the Program for $250 per dwelling unit and each commercial building for up to $5,000 per unit. Commercial, single-family and small multi-family dwellings shall be sold at prices determined by the Administrator after considering the income level of the purchaser, the condition of the property, and such other factors as the Administrator deems appropriate pursuant to rules. In transferring single-family dwellings with 1 dwelling unit, priority shall be given to low-income persons. Any rules or factors developed by the Administrator for consideration in connection with the transfer of single-family and small multi-family dwellings shall be transmitted to the Council for review and approval pursuant to § 45-2704.

"(b) Individuals renting commercial space or residing in buildings in which dwelling units are rented or offered for rent at the time of inclusion of the building in the Program shall be given the right of first refusal to purchase a proprietary interest in the unit in which they reside or in a comparable unit within the building provided that the resident agrees to join a condominium association, tenant association or cooperative housing association that qualifies for participation in the Program. Those individuals who do not elect to purchase shall have the right to relocation assistance, consistent with

§ 45-1621. If the individual is an elderly tenant, within the meaning of § 45-1616, he or she shall be entitled to the protection afforded by that section.

"(c) Individuals who are not tenants in a building included in the Program shall participate in the Program individually or through a condominium association, nonprofit developer or cooperative housing association.

"(d) With the exception of those individuals occupying a building at the time that the building is included in the Program, acceptance of individuals as potential homesteaders shall be limited to first-time home buyers, and commercial properties shall be offered to developers through a competitive bidding process as defined in rules promulgated by the Administrator and approved by the Council pursuant to § 45-2704.

"(e) The Administrator may provide to low- or moderate-income individuals a second mortgage not to exceed $10,000 per dwelling unit for the cost of repairs of the unit. The homesteaders shall not be required to repay the mortgage until the unit is transferred, as that term is defined in rules promulgated by the Administrator and approved by the Council pursuant to § 45-2704, at which time the entire $10,000 shall become due and owing, plus interest."

Section 5(b) of D.C. Law 12-245 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(g)-(j) of the Homestead Housing Preservation Emergency Amendment Act of 1998 (D.C. Act 12-556, January 12, 1999, 45 DCR 625).

§ 45-2708. Abatement agreement.

Temporary amendment of section. — Section 2(k) and (l) of D.C. Law 12-245 amended (a) and (b) to read as follows:

"(a) At the time of settlement, the homesteader shall take free and clear title to property subject only to the terms of an abatement agreement and this act. Each homesteader at the time of property settlement shall enter into an abatement agreement with the District, which shall include, but shall not be limited to, requirements that the homesteader perform the following:

"(1) The homesteader (Residential) shall maintain the property as his or her principal dwelling place and residence for a period commencing with the date of property settlement and ending on the 5th anniversary of the settlement date. If the property cannot be lawfully occupied on the settlement date, the homesteader (Residential) shall be considered in compliance with this residency provision if he or she takes occupancy within a reasonable period of time after the property has been brought into compliance with the Building Code approved pursuant to the Construction Codes Approval and Amendments Act of 1986 ('Building Code'), and the District of Columbia Housing Code (14 DCMR Chapter 1-14) ('Housing Code').

"(1A) The homesteader (Commercial) shall maintain title and ownership of the property for a period commencing with the date of property settlement and ending on the 10th anniversary of the settlement date. If the property cannot be lawfully occupied on the settlement date, the homesteader (Commercial) shall be considered in compliance with this ownership provision if the nonprofit organization or developer takes physical possession of the property within a reasonable period of time after the property has been brought into compliance with the Building Code approved pursuant to the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; 12A DCMR), and the Housing Regulations of the District of Columbia, effective August 11, 1955 (C.O. 55-1503; 14 DCMR Chapters 1 -14) ('Housing Code').

"(1B) The homesteader (Commercial) shall provide needed community services for at least l0 years to the residents of the District.

*****

"(4) The homesteader (Residential) shall not sell, convey, lease, or otherwise alienate the property, or place liens or encumbrances on it, for at least 5 years from the date of property settlement without the written approval of the District.

"(4A) The homesteader (Commercial) shall not sell, convey, or otherwise alienate the property, or place liens or encumbrances on it, for at least 10 years from the date of property settlement without written approval of the District.

"(5) During the 5 or 10-year period, the homesteader shall permit periodic inspections of the property by the District or its agents or other persons duly authorized by the District for the purpose of determining the homesteader's compliance with the requirements of the Program.

"(6) The homesteader shall maintain at all times during the 5 or 10-year period fire and extended coverage insurance with a face amount equal to at least 80% of the fair market value of the property.

*****

"(b) Organizations to which residential buildings have been transferred shall certify that their members or other individuals who will reside in the buildings will meet the requirements of the abatement agreement and any other terms and conditions of the transfer imposed by the Administrator. Organizations to

which commercial properties have been transferred shall certify that they will meet the terms of an abatement agreement that would require the rehabilitation of the property."

Section 5(b) of D.C. Law 12-245 provided that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(k) and (l) of the Homestead Housing Preservation Emergency Amendment Act of 1998 (D.C. Act 12-556, January 12, 1999, 45 DCR 625).

CHAPTER 28. REAL PROPERTY WET SETTLEMENT.

Sec.
45-2801. Definitions.

§ 45-2801. Definitions.

For the purposes of this chapter, the term:

(1) "Disbursement of loan funds" means the delivery of loan funds by a lender to a settlement agent in the form of:

* * * * *

(E) Cashier's check or teller's check; or

* * * * *

(Apr. 20, 1999, D.C. Law 12-261, § 1241, 46 DCR 3142.)

Effect of amendments. — D.C. Law 12-261 inserted "or teller's check" in (1)(E).

Legislative history of Law 12-261. — Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second reading on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615, and transmitted to both Houses of Congress for review. D.C. Law 12-261 became effective on April 20, 1999.

§ 45-2802. Applicability.

Cited in Concord Enters., Inc. v. Binder, App. D.C., 710 A.2d 219 (1998).

§ 45-2807. Penalty.

Cited in Concord Enters., Inc. v. Binder, App. D.C., 710 A.2d 219 (1998).

CHAPTER 32. REAL ESTATE APPRAISERS.

Sec.
45-3201 to 45-3232. [Repealed].

§ 45-3201. Definitions.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 2, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 2, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second reading on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615, and transmitted to both Houses of Congress for review. D.C. Law 12-261 became effective on April 20, 1999.

§ 45-3202. Establishment of the Board of Appraisers.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 3, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 3, 38 DCR 226; Apr. 18, 1996, D.C. Law 11-110, § 50, 43 DCR 530; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3203. Terms of members; limitation; removal; officers; meetings; quorum; compensation; Executive Director.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 4, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 4, 38 DCR 226; Apr. 18, 1996, D.C. Law 11-110, § 50, 43 DCR 530; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3204. Powers of the Board of Appraisers.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 5, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 5, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3205. Powers and duties of the Mayor.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 6, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 6, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3206. Licenses and certifications required; exceptions.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 7, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 7, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3207. Qualifications for licensure and certification; education; training; and experience.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 8, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 8, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3208. Examination requirement.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 9, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 9, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3209. Licensure and certification by reciprocity or endorsement.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 10, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 10, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3210. Issuance of licenses and certifications; scope.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 11, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 11, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3211. Term and renewal of licenses and certifications.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 12, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 12, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3212. Continuing education.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 13, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 13, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3213. Nonresident licensure and certification.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 14, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 14, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3214. Temporary practice.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 15, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 15, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3215. Fees.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 16, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 16, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3216. Basis for denial or revocation of license and certificate.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 17, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 17, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201..

§ 45-3217. Investigations.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 18, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 18, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3218. Hearings.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 19, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 19, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3219. Disciplinary action by the Board.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 20, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 20, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3220. License suspension upon criminal conviction.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 21, 38 DCR 171; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3221. Surrender of a license or certificate.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 22, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 21, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3222. Standards of practice.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 23, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 22, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3223. Retention of records.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 24, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 23, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3224. Contingent fees.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 25, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 24, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3225. Judicial review of Board action.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 26, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 25, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3226. Practicing without a license or certificate.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 27, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 26, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3227. Criminal penalties.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 28, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 27, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3228. Alternative sanctions.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 29, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 28, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3229. Injunctions.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 30, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 29, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3230. Filing false document or evidence; false statements.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 31, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 30, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3231. Representations prohibited.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 32, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 31, 38 DCR 226; Apr. 18, 1996, D.C. Law 11-110, § 50, 43 DCR 530; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

§ 45-3232. Establishment of Fund.

Repealed.

(Mar. 7, 1991, D.C. Law 8-219, § 33, 38 DCR 171; Mar. 7, 1991, D.C. Law 8-228, § 32, 38 DCR 226; Apr. 20, 1999, D.C. Law 12-261, § 1242, 46 DCR 3142.)

Legislative history of Law 12-261. — See note to § 45-3201.

CHAPTER 33. DRUG-RELATED NUISANCE ABATEMENT.

§ 45-3301. Definitions.

For the purpose of this chapter, the term:

(1) "Adverse impact" means the presence of any one or more of the following conditions:

(A) Diminished real property value which is related to the use, sale, or manufacture of controlled substances or drug paraphernalia in and around the property;

(B) Increased fear of residents to walk through or in public areas, including sidewalks, streets, and parks, due to the use, sale, or manufacture of controlled substances or drug paraphernalia, or violence stemming therefrom;

(C) Increased volume of vehicular and pedestrian traffic to and from the property which is related to the use, sale, or manufacture of controlled substances or drug paraphernalia in and around the property;

(D) An increase in the number of ambulance or police calls to the property which are related to the use, sale, or manufacture of controlled substances or drug paraphernalia, or to violence stemming therefrom;

(E) Bothersome solicitations or approaches by persons wishing to sell controlled substances or drug paraphernalia on or near the property;

(F) The display of dangerous weapons at or near the property;

(G) Investigative purchases of controlled substances or drug paraphernalia by undercover law enforcement officers at or near the property;

(H) Arrests of persons on or near the property for criminal conduct relating to the use, sale, or manufacture of controlled substances or drug paraphernalia;

(I) Search warrants served or executed at the property relating to the use, sale, or manufacture of controlled substances or drug paraphernalia;

(J) A substantial number of complaints made to law enforcement and other government officials about alleged illegal activity associated with the use, sale, or manufacture of controlled substances or drug paraphernalia in and around the property; or

(K) The discharge of a firearm at the property.

(2) "Community-based organization" means any group, whether unincorporated or incorporated, affiliated with or organized for the benefit of one or more communities or neighborhoods, of defined geographic boundaries, containing the drug related nuisance, or any group organized to benefit the quality of life in a residential area containing the alleged drug-related nuisance.

(3) "Controlled substance" means any of the controlled substances as defined in § 33-501(4).

(4) "Drug paraphernalia" means drug paraphernalia, as defined in § 33-601(3).

(5) "Drug-related nuisance" means:

(A) Any real property, in whole or in part, used or intended to be used to facilitate any violation of Chapter 5 of Title 33; or

(B) Any real property, in whole or in part, used, or intended to be used, to facilitate the use, sale, distribution, possession, storage, transportation, or manufacture of any controlled substance or drug paraphernalia which has an adverse impact on the community.

(6) "Manufacturing" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin or independent means of chemical synthesis, including the packaging or repackaging of the drug or labeling or relabeling of its container.

(7) "Owner" means the individual, corporation, partnership, trust association, joint venture, or any other business entity, and the respective agents of such individuals or entities, in whom is vested all or any part of the title to the property alleged to be a drug-related nuisance.

(8) "Property" means tangible real property, or any interest in real property, including an interest in any leasehold, license or real estate, such as any house, apartment building, condominium, cooperative, office building, storage, restaurant, tavern, nightclub, warehouse, park, median, and the land extending to the boundaries of the lot upon which such structure is situated, and anything growing on, affixed to, or found on the land.

(9) "Tenant" means a person who resides in or occupies real property owned by another person pursuant to a lease agreement, whether written or oral, or pursuant to a tenancy at will or sufferance at common law. (Mar. 26, 1999, D.C. Law 12-194, § 2, 45 DCR 7982.)

Temporary addition of chapter. — Section 2 of D.C. Law 12-178 enacted §§ 45-3301 through 45-3314, comprising Chapter 33 of Title 45.

Section 17(b) of D.C. Law 12-178 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary addition of this chapter, consisting of §§ 45-3301 through 45-3314, see §§ 2-14 of the Drug-Related Nuisance Abatement Emergency Act of 1998 (D.C. Act 12-395, October 4, 1998, 45 DCR 4648), §§ 2-14 of the Drug-Related Nuisance Abatement Congressional Review Emergency Act of 1998 (D.C. Act 12-476, October 28, 1998, 45 DCR 8001), and §§ 2-14 of the Drug-Related Nuisance Abatement Second Congressional Review Emergency Act of 1998 (D.C. Act 12-545, December 24, 1998, 45 DCR 490).

Section 17 of D.C. Act 12-476 provides for the application of the act.

Section 17 of D.C. Act 12-545 provides for the application of the act.

Legislative history of Law 12-178. — Law 12-178, the "Drug-Related Nuisance Abatement Temporary Act of 1998," was introduced in Council and assigned Bill No. 12-677. The Bill was adopted on first and second readings on June 2, 1998, and July 7, 1998, respectively. Signed by the Mayor on July 20, 1998, it was assigned Act No. 12-420 and transmitted to both Houses of Congress for its review. D.C. Law 12-178 became effective on March 26, 1999.

Legislative history of Law 12-194. — Law 12-194, the "Drug-Related Nuisance Abatement Act of 1998," was introduced in Council and assigned Bill No. 12-519, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on July 7, 1998 and September 22, 1998, respectively. Signed by the Mayor on October 8, 1998, it was assigned Act No. 12-470 and transmitted to both Houses of Congress for its review. D.C. Law 12-194 became effective on March 26, 1999.

§ 45-3302. Action to abate.

(a) Wherever there is reason to believe that a drug-related nuisance exists, the United States Attorney for the District of Columbia, the Corporation Counsel for the District of Columbia, or any community-based organization may file an action in the Superior Court of the District of Columbia to abate, enjoin, and prevent the drug-related nuisance.

(b) Such actions shall be commenced by the filing of a complaint in the Civil Branch of the Superior Court of the District of Columbia against any person alleging the facts constituting the drug-related nuisance.

(c) Such actions shall be in equity and shall be tried without a jury. (Mar. 26, 1999, D.C. Law 12-194, § 3, 45 DCR 7978.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3303. Complaint.

(a) The complaint or an affidavit attached thereto shall describe the adverse impact of the drug-related nuisance upon the surrounding community.

(b) The complaint shall contain a description of attempts made by the plaintiff to notify the owner of the property on which the drug-related nuisance is situated about the drug-related nuisance and the resulting adverse impact. No complaint shall be filed unless a reasonable attempt at notice to the owner of the property on which the alleged drug-related nuisance is situated is made no later than 14 days prior to the filing of the complaint. This notice requirement may be satisfied either by a mailing to the last known mailing address of the owner or by posting a conspicuous notice at the property stating the general nature of the drug-related nuisance.

(c) When an action is brought pursuant to this act by a community-based organization, the complaint shall be supported by at least 1 person residing, either as a tenant or otherwise, or owning real property within 3000 feet of the property alleged to be a drug-related nuisance. Said support shall be in the form of an affidavit testifying to the fact that the affiant's residence is within 3000 feet of the alleged drug-related nuisance, that the affiant has witnessed the activities alleged to constitute a drug-related nuisance, and that the affiant is aware of an adverse impact on the community stemming from the alleged drug-related nuisance.

(d) A copy of the summons and complaint shall be served upon the defendant at least 5 business days prior to the first hearing on the action. Service shall be made in accordance with the Rules of the Superior Court of the District of Columbia or by posting a conspicuous notice at the property indicating the nature of the proceedings, a copy of the summons, and the time and place of the hearing. If service is made by posting at the property, a copy of the summons and complaint shall be sent, by first class mail, postage prepaid, to the last known mailing address, if any, of the defendant. If the defendant is not the owner of the property, a copy of the summons and complaint shall be mailed to the last known mailing address of the owner. (Mar. 26, 1999, D.C. Law 12-194, § 4, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3304. Preliminary injunction.

(a) Upon the filing of a complaint to abate the drug-related nuisance, the court shall hold a hearing on the motion for a preliminary injunction, within 10 business days of the filing of such action. If it appears, by affidavit or otherwise, that there is a substantial likelihood that the plaintiff will be able to prove at trial that a drug-related nuisance exists, the court may enter an order preliminarily enjoining the drug-related nuisance and granting such other relief as the court may deem appropriate, including those remedies provided in § 45-3310. A plaintiff need not prove irreparable harm to obtain a preliminary injunction. Where appropriate, the court may order a trial of the action on the merits to be advanced and consolidated with the hearing on the motion for preliminary injunction.

(b) This section shall not be construed to prohibit the application for or the granting of a temporary restraining order, or other equitable relief otherwise provided by law. (Mar. 26, 1999, D.C. Law 12-194, § 5, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3305. Protection of witnesses.

If proof of the existence of the drug-related nuisance depends, in whole or in part, upon affidavits of witnesses who are not law enforcement officers, the court in its discretion may issue orders to protect those witnesses, including, but not limited to, placing the complaint and supporting affidavits under seal. (Mar. 26, 1999, D.C. Law 12-194, § 6, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3306. Conviction not required.

A previous conviction of the defendant, or any tenant or owner of the property, shall not be required to demonstrate a drug-related nuisance. (Mar. 26, 1999, D.C. Law 12-194, § 7, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3307. Security.

No security bond shall be required to issue a preliminary injunction or temporary restraining order sought by the United States Attorney for the District of Columbia or by the Corporation Counsel. Otherwise, the court may require a security bond to issue a preliminary injunction or temporary restraining order. (Mar. 26, 1999, D.C. Law 12-194, § 8, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3308. Burden of proof.

The plaintiff must establish that a drug-related nuisance exists by a preponderance of the evidence. Once a reasonable attempt at notice is made pursuant to § 45-3303, the owner of the property shall be presumed to have knowledge of the drug-related nuisance. A plaintiff is not required to make any further showing that the owner knew, or should have known, of the drug-related nuisance to obtain relief under §§ 45-3310 or 45-3311. (Mar. 26, 1999, D.C. Law 12-194, § 9, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3309. Evidence of reputation.

In an action brought under this chapter, evidence of general reputation of the property or tenants is admissible for the purpose of proving a drug-related nuisance, and for the purpose of proving the knowledge of the defendant of the nuisance. (Mar. 26, 1999, D.C. Law 12-194, § 10, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3310. Relief.

(a) If the existence of a drug-related nuisance is found, the court shall enter an order permanently enjoining, abating, and preventing the continuance or recurrence of the nuisance. In order to effectuate fully the equitable remedy of abatement, such order may include damages as provided in § 45-3311. The court may grant declaratory relief or any other relief deemed necessary to accomplish the purposes of the judgment. The court may retain jurisdiction of the case for the purpose of enforcing its orders. A drug-related nuisance is a nuisance per se requiring abatement as provided under subsection (b) of this section.

(b) Any order issued under this section may include the following relief:

(1) Assessment of reasonable attorney fees and costs to the prevailing party;

(2) Ordering the owner to make repairs upon the property;

(3) Ordering the owner to make reasonable expenditures upon the property, including the installation of secure locks, hiring private security personnel, increasing lighting in common areas, and using videotaped surveillance of the property and adjacent alleys, sidewalks, or parking lots;

(4) Ordering all rental income from the property to be placed in an escrow account with the court for up to 90 days or until the drug-related nuisance is abated;

(5) Ordering all rental income for the property transferred to a trustee, to be appointed by the court, who shall be empowered to use the rental income to make reasonable expenditures related to the property in order to abate the drug-related nuisance;

(6) Ordering the property vacated, sealed, or demolished; or

(7) Any other remedy which the court, in its discretion, deems appropriate.

(c) In fashioning an order under this section, the court shall consider, without limitation, the following factors:

(1) The extent and duration of the drug-related nuisance and the severity of the adverse impact on the community;

(2) The number of people residing at the property;

(3) The proximity of the property to other residential structures;

(4) The number of times the property has been cited for housing code or health code violations;

(5) The number of times the owner or tenant has been notified of drug-related problems at the property;

(6) Prior efforts or lack of efforts by the defendant to abate the drug-related nuisance;

(7) The involvement of the owner or tenant in the drug-related nuisance;

(8) The costs incurred by the jurisdiction or by the community-based organization in investigating, correcting, or attempting to correct the drug-related nuisance;

(9) Whether the drug-related nuisance was continuous or recurring;

(10) The economic or financial benefit accruing or likely to accrue to the defendant as a result of the conditions constituting the drug-related nuisance; or

(11) Any other factor the court deems relevant.

(d) In fashioning an order under this section, the court shall not consider the lack of action by other property owners, tenants, or third parties to abate the drug-related nuisance. (Mar. 26, 1999, D.C. Law 12-194, § 11, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3311. Damages.

In addition to equitable relief granted under this act, the plaintiff may request, and the court in its discretion may order damages for each day the drug-related nuisance is unabated since the date the defendant first received notice of the drug-related nuisance as provided in § 45-3303, or knew or should have known of the existence of the drug-related nuisance, whichever is earlier. Such damages shall be payable to the plaintiff, or, in the case of an action by the United States Attorney for the District of Columbia or by the Corporation Counsel, to the General Fund of the District of Columbia. No other damages are recoverable under this chapter. (Mar. 26, 1999, D.C. Law 12-194, § 12, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3312. Violation of injunction or abatement order.

(a) A violation of any court order issued under this chapter is punishable as a contempt of court.

(b) Upon finding that a defendant has willfully violated an order issued under this chapter, the court may issue any additional orders necessary to abate the drug-related nuisance.

(c) Upon motion, the court may vacate an order or judgment of abatement if the owner of the property satisfies the court that the drug-related nuisance has been abated for 90 days prior to the motion, corrects all housing code and health code violations on the property, and deposits a bond in an amount to be determined by the court, which shall be in an amount reasonably calculated to ensure continued abatement of the nuisance. Any bond posted under this

subsection shall be forfeited immediately if the drug-related nuisance recurs during the 2-year period following the date on which an order under this section is entered. At the close of 2 years following the date on which an order under this section is entered, the bond shall be returned. (Mar. 26, 1999, D.C. Law 12-194, § 13, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3313. Interpretation.

This chapter shall be construed liberally in accordance with its remedial purposes. The definition of a drug-related nuisance shall not be subject to any restrictions or limitations upon public or private nuisance actions at common law. This action is civil in nature and none of its provisions should be interpreted as punishment. (Mar. 26, 1999, D.C. Law 12-194, § 14, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

§ 45-3314. Availability of other remedies.

The provisions of this chapter shall not limit the availability of other remedies under the law or other equitable relief whether or not an adequate remedy exists at law. (Mar. 26, 1999, D.C. Law 12-194, § 15, 45 DCR 7982.)

Temporary addition of chapter. — See note to § 45-3301.

Emergency act amendments. — For temporary addition of chapter, see notes to § 45-3301.

Legislative history of Law 12-178. — See note to § 45-3301.

Legislative history of Law 12-194. — See note to § 45-3301.

TITLE 46. SOCIAL SECURITY.

CHAPTER 1. UNEMPLOYMENT COMPENSATION.

§ 46-101. Definitions.

As used in this chapter, unless the context indicates otherwise:

* * * * *

(2)

* * * * *

(E) The term "employment" shall not include:

* * * * *

(xvii) Service performed after April 1, 1962, in the employ of a public international organization designated by the President as entitled to enjoy the privileges, exemptions, and immunities provided under the International Organizations Immunities Act (22 U.S.C. §§ 288 to 288f-3);

(xviii) Service performed by a prisoner employed in the District of Columbia's prison industries program, unless the prisoner is employed in a prison industry approved under the Bureau of Justice Assistance Private Sector Prison Industry Enhancement Certification Program as defined in § 24-458.1(1); or

(xix) Service performed by the Mayor, a member of the Council of the District of Columbia, or a member of the District of Columbia Board of Education.

* * * * *

(May 8, 1996, D.C. Law 11-117, § 18(c), 43 DCR 1179; Mar. 20, 1998, D.C. Law 12-60, § 1201, 44 DCR 7378; Apr. 20, 1999, D.C. Law 12-264, § 56, 46 DCR 2118.)

Effect of amendments.

D.C. Law 11-117 added (2)(E)(xviii).

D.C. Law 12-60 added (2)(E)(xix).

D.C. Law 12-264 validated a previously made technical correction to D.C. Law 12-60.

Temporary amendment of section. — Section 1201 of D.C. Law 12-59 added (2)(E)(xix).

Section 2001(b) of D.C. Law 12-59 provided that the act shall expire after 225 days of its having taken effect.

Section 2002 of D.C. Law 12-59 provided that the act shall apply as of October 1, 1997.

Emergency act amendments. — For temporary amendment of section, see § 1201 of the Fiscal Year 1998 Revised Budget Support Emergency Act of 1997 (D.C. Act 12-152, October 17, 1997, 44 DCR 6196), and see § 1201 of the Fiscal Year 1998 Revised Budget Support Congressional Review Emergency Act of 1997 (D.C. Act 12-239, January 13, 1998, 45 DCR 508).

Section 2002 of D.C. Act 12-152 provides for the application of the act.

Legislative history of Law 11-117. — Law 11-117, the "Prison Industries Act of 1996," was introduced in Council and assigned Bill No. 11-151, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on January 4, 1996, and February 6, 1996, respectively. Signed by the Mayor on February 26, 1996, it was assigned Act No. 11-221 and transmitted to both Houses of Congress for its review. D.C. Law became effective on May 8, 1996.

Legislative history of Law 12-59. — Law 12-59, the "Fiscal Year 1998 Revised Budget Support Temporary Act of 1997," was introduced in Council and assigned Bill No. 12-350. The Bill was adopted on first and second readings on September 8, 1997, and September 22, 1997, respectively. Signed by the Mayor on October 24, 1997, it was assigned Act No. 12-190 and transmitted to both Houses of Congress for its review. D.C. Law 12-59 became effective on March 20, 1998.

Legislative history of Law 12-60. — Law 12-60, the "Fiscal Year 1998 Revised Budget Support Act of 1998," was introduced in Council and assigned Bill No. 12-353, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on September 8, 1997, and October 7, 1997, respectively. Signed by the Mayor on October 24, 1997, it was assigned Act No. 12-191 and transmitted to both Houses of Congress for its review. D.C. Law 12-60 became effective on March 20, 1998.

Legislative history of Law 12-264. — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Application of Law 12-60. — Section 2002 of D.C. Law 12-60 provided that the act shall apply as of October 1, 1997.

§ 46-103. Employer contributions.

* * * * *

(e)

* * * * *

(6) After January 1, 1997, the term "wages" shall not include any amount in excess of $9,000 actually paid to any person arising out of employment in 1997 or in any succeeding calendar year.

* * * * *

(Mar. 26, 1999, D.C. Law 12-175, § 202(a), 45 DCR 7193.)

Effect of amendments.

D.C. Law 12-175 added (e)(6).

Temporary amendment of section. — Section 2(a) of D.C. Law 12-2 added (e)(6).

Section 4(b) of D.C. Law 12-2 provides that the act shall expire after 225 days of its having taken effect.

Section 2(a) of D.C. Law 12-95 added (e)(6).

Section 4(b) of D.C. Law 12-95 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(a) of the Unemployment Compensation Tax Stabilization Emergency Amendment Act of 1997 (D.C. Act 12-1, January 23, 1997, 44 DCR 1469), § 2(a) of the Unemployment Compensation Tax Stabilization Second Emergency Amendment Act of 1997 (D.C. Act 12-247, January 13, 1998, 45 DCR 767), § 2(a) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-303, March 20, 1998, 45 DCR 1895), § 2(a) of the Unemployment Compensation Tax Stabilization Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-521, December 9, 1998, 46 DCR 2102), and § 2(a) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-27, March 15, 1999, 46 DCR 2983).

Section 4 of D.C. Act 12-247 provides for application of the act.

Section 4 of D.C. Act 12-303 provides for the application of the act.

Section 4 of D.C. Act 12-521 provides for the application of the act.

Legislative history of Law 12-2. — Law 12-2, the "District of Columbia Unemployment Compensation Tax Stabilization Temporary

Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-2. The Bill was adopted on first and second readings on January 7, 1997, and February 4, 1997, respectively. Signed by the Mayor on February 18, 1997, it was assigned Act No. 12-15 and transmitted to both Houses of Congress for its review. D.C. Law 12-2 became effective on May 7, 1997.

Legislative history of Law 12-95. — Law 12-95, the "Unemployment Compensation Tax Stabilization Second Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-491, which was retained by Council. The Bill was adopted on first and second readings on December 16, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act No. 12-268 and transmitted to both Houses of Congress for its review. D.C. Law 12-95 became effective on April 30, 1998.

Legislative history of Law 12-175. — Law 12-175, the "Fiscal Year 1999 Budget Support Act of 1998," was introduced in Council and assigned Bill No. 12-618, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 5, 1998 and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-399 and transmitted to both Houses of Congress for its review. D.C. Law 12-175 became effective on March 26, 1999.

§ 46-108. Determination of amount and duration of benefits.

* * * * *

(b) An individual's "weekly benefit amount" shall be an amount equal to one twenty-sixth (computed to the next higher multiple of $1) of his total wages for insured work paid during that quarter of his base period in which such total wages were highest, with such other following limitations. The Director shall determine annually a maximum weekly benefit amount by computing 66⅔% of the average weekly wage paid to employees in insured work, and shall on or before January 1st of the calendar year in which it shall be effective announce by publication in at least 1 newspaper of general circulation in the District, the maximum weekly benefit amount so determined. Such computation shall be made by determining total wages reported as paid for insured work by employers in each 12-month period ending June 30th and dividing said total wages by a figure resulting from 52 times the average of mid-month employment reported by employers for the same period. For the period from March 30, 1962, to December 31, 1962, the maximum weekly benefit amount shall be determined and announced by the Director in accordance with the foregoing formula on the basis of wages and employment in the 12-month period ending June 30, 1961. The maximum weekly benefit amount so determined and announced for a calendar year shall apply only to those claims filed in that year qualifying for maximum payment under the foregoing formula. All claims qualifying for payment at the maximum weekly benefit amount shall be paid at the maximum weekly benefit amount in effect when the benefit year to which the claim relates was first established, notwithstanding a change in said amount for a subsequent calendar year. If the maximum weekly benefit amount is not a multiple of $1, then said maximum weekly benefit amount shall be computed to the next multiple of $1.

(3)

* * * * *

(B)(i) Effective January 1, 1988, and for each calendar year thereafter, the maximum weekly benefit amount shall be determined by the Director of the Department of Employment Services ("Director") by computing 50% of the

average weekly wage paid to employees in insured work, unless the Director certifies to the Council on or before September 30th of the preceding year that the financial condition of the District Unemployment Compensation Trust Fund would be worsened by adoption and implementation of a maximum weekly benefit amount determined by that method. Any such certification by the Director shall be accompanied by a recommended maximum weekly benefit amount which shall not be less than the maximum weekly benefit amount then in effect and which shall become the maximum weekly benefit amount for the next calendar year, unless the Council passes a resolution disapproving the Director's recommendation within 45 days after its receipt.

(ii) For benefit years commencing on or after January 5, 1997, the maximum weekly benefit amount shall be $309.

* * * * *

(c)(1) To qualify for benefits an individual must have:

(A) Been paid wages for employment of not less than $1300 in 1 quarter in his base period;

(B) Been paid wages for employment of not less than $1950 in not less than 2 quarters in such period; and

(C) Received during such period wages the total amount of which is equal to at least one and one-half times the amount of his wages actually received in the quarter in such period in which his wages were the highest.

(2) If a claimant satisfies the above except that he received wages over the amount necessary to become eligible for maximum benefits, in the quarter in which his wages were the highest, then the additional wages received in such quarter shall not be considered in determining eligibility. Notwithstanding the provisions of paragraph (1)(C) of this subsection, any otherwise qualified individual, the total amount of whose wages during such period is less than the amount required to have been received during such period under such paragraph, may qualify for benefits, if the difference between the amounts so required to have been received and the total amount of his wages during such period does not exceed $70, but the amount of his weekly benefit, as computed under subsection (b) of this section, shall be reduced by $1 if such difference does not exceed $35, or by $2 if such difference is more than $35. Wages received by an individual in the period intervening between the end of his last base period and the beginning of his last benefit year shall not be available for benefit purposes in a subsequent benefit year unless he has, subsequent to the commencement of such last benefit year, performed services for which he received wages for employment as defined in this chapter, in an amount equal to at least 10 times the weekly benefit amount for which he qualifies in such last benefit year. Benefits payable to an individual with respect to a week shall be reduced, under regulations prescribed by the Board, by any amount received or applied for with respect to such week as a retirement pension or annuity under a public or private retirement plan or system provided, or contributed to, by any base period employer; except that no reduction shall be made under this sentence for any amount received under Title II of the Social Security Act. For any week beginning after March 31, 1980, benefits payable for any week to an individual who has applied for or is receiving a retirement

pension or annuity under a public or private retirement plan, including any such sum provided under Title II of the Social Security Act, shall, under regulations prescribed by the Board, be reduced (but not below zero) by the prorated weekly amount of such retirement pension or annuity which is reasonably attributable to such week. An amount received with respect to a period other than a week shall be prorated by weeks. When an individual's weekly benefit amount is reduced by a pension, the individual's maximum weekly benefit amount shall be deducted from his total amount of benefits determined pursuant to subsection (d) of this section. Benefits payable to an individual with respect to a week shall be reduced by the amount of wages received in lieu of notice of dismissal, defined as dismissal payments that the employer is not legally required to make.

* * * * *

(f) In addition to the benefits payable under the foregoing subsections of this section, each eligible individual who is unemployed in any week shall be paid with respect to such week $5 for each dependent relative, but not more than $20 shall be paid to an individual as dependent's allowance with respect to any 1 week of unemployment nor shall any weekly benefit which includes a dependent's allowance be paid in the amount of more than the established maximum benefit amount. An individual's number of dependents shall be determined as of the day with respect to which he first files a valid claim for benefits in any benefit year, and shall be fixed for the duration of such benefit year. The dependent's allowance is not to be taken into consideration in calculating the claimant's total amount of benefits in subsection (d) of this section; provided, however, that this section shall not apply to claims for benefit years commencing on or after January 5, 1997.

(g) Notwithstanding any other provisions of this section, this subsection provides a program of extended benefits on and after January 1, 1972.

* * * * *

(3) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the Director finds that with respect to such week:

(A) He is an "exhaustee" as defined in paragraph (1)(H) of this subsection;

(B) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

* * * * *

(i)(1) For the purposes of this subsection, the term:

(A) "Additional benefits period" means a period which:

* * * * *

(ii) Ends with whichever of the following weeks occurs first:

(I) The 11th consecutive week of such period; or

(II) The week immediately preceding the first week in which any federal program is in effect in the District which provides benefits to claimants who have exhausted their regular benefits; and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 52(a), 44 DCR 1271; Mar. 26, 1999, D.C. Law 12-175, § 202(b), (c), 45 DCR 7193; Apr. 20, 1999, D.C. Law 12-261, § 4002(a), 46 DCR 3142.)

Effect of amendments.

D.C. Law 11-255 validated previously made stylistic changes in (g)(3)(A) and (B) and (i)(1)(A)(ii)(I) and (II).

D.C. Law 12-175 added (b)(3)(B)(ii); and added the proviso to the last sentence in (f).

D.C. Law 12-261 redesignated the former introductory language of (c) as (c)(1), redesignated former (c)(1), (c)(2), and (c)(3) as (c)(1)(A), (c)(1)(B), and (c)(1)(C), respectively, and designated the former undesignated paragraph as (c)(2); and, in present (c)(2), substituted "paragraph (1)(C)" for "paragraph (3)" in the second sentence, and added the last sentence.

Temporary amendment of section. — Section 2(b) and (c) of D.C. Law 12-2 added (b)(3)(B)(ii); and added the proviso to the last sentence in (f).

Section 4(b) of D.C. Law 12-2 provides that the act shall expire after 225 days of its having taken effect.

Section 2(b) and (c) of D.C. Law 12-95 added (b)(3)(B)(ii); and added the proviso to the last sentence in (f).

Section 4(b) of D.C. Law 12-95 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2(b) of the Unemployment Compensation Tax Stabilization Emergency Amendment Act of 1997 (D.C. Act 12-1, January 23, 1997, 44 DCR 1469), § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Second Emergency Amendment Act of 1997 (D.C. Act 12-247, January 13, 1998, 45 DCR 767), § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-303, March 20, 1998, 45 DCR 1895), § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-521, December 9, 1998, 46 DCR 2102), and § 2(b) and (c) of the Unemployment Compensation Tax Stabilization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-27, March 15, 1999, 46 DCR 2983).

Section 4 of D.C. Act 12-247 provides for application of the act.

Section 4 of D.C. Act 12-303 provides for application of the act.

Section 4 of D.C. Act 12-521 provides for application of the act.

Section 4 of D.C. Act 13-27 provides for application of the act.

Legislative history of Law 11-255. — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 12-2. — See note to § 46-103.

Legislative history of Law 12-95. — See note to § 46-103.

Legislative history of Law 12-175. — See note to § 46-103.

Legislative history of Law 12-261 — Law 12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

§ 46-110. Eligibility for benefits.

An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the Director:

* * * * *

(8) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between 2 successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods); and

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 52(b), 44 DCR 1271.)

Effect of amendments.
D.C. Law 11-255 validated previously made stylistic changes in (8).

Legislative history of Law 11-255. — See note to § 46-108.

§ 46-111. Disqualification for benefits.

* * * * *

(d)(1) Benefits shall not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions.

* * * * *

(B) If the wages, earnings, hours, or other conditions of the work offered are less favorable to the individual than those prevailing for similar work in the locality; or

(C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(2) Compensation shall not be denied to any otherwise eligible individual for any week during which he is attending a training or retraining course with the approval of the Director, and such individual shall be deemed to be otherwise eligible for any such week despite the provisions of § 46-110(4) and subsection (c) of this section.

* * * * *

(Apr. 9, 1997, D.C. Law 11-255, § 52(c), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 56, 45 DCR 745.)

Effect of amendments.
D.C. Law 11-255 validated previously made stylistic changes in (d)(1)(B) and added "or" to the end of (d)(2).

D.C. Law 12-81 validated a previously made technical correction.

Legislative history of Law 11-255. — See note to § 46-108.

Legislative history of Law 12-81. — See note to § 45-1864.

Gross misconduct. — "Gross misconduct" as used in this section, was legally undefined between January 3, 1993 and June 24, 1994, this section was a nullity during that period, and a person seeking unemployment benefits during that period cannot be deemed ineligible for benefits on the ground of gross misconduct; the District is still entitled to prove employee was discharged for misconduct other than gross misconduct as defined by duly prescribed regulations. District of Columbia v. Department of Emp. Servs., App. D.C., 713 A.2d 933 (1998).

During employment. — Where teacher's misconduct occurred during the summer after

the previous school year had ended and employee had not been assigned a position for the coming year, the District of Columbia must show that the employee's misconduct occurred during her employment; any misconduct, in order to be disqualifying, must have occurred during the employee's "most recent work." District of Columbia v. Department of Emp. Servs., App. D.C., 713 A.2d 933 (1998).

Cited in Harker v. District of Columbia Dep't of Emp. Servs., App. D.C., 712 A.2d 1026 (1998).

§ 46-114. Administration of provisions of chapter; disclosure of information.

* * * * *

(b)(1) Notwithstanding any other provision of law, the Director is authorized to prescribe all regulations which may be necessary to implement this chapter.

* * * * *

(f) Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this chapter and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner, whether by subpoena or otherwise, revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this chapter with respect thereto. Subject to such restrictions as the Director may by regulation prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or the agency of any state or the federal agency charged with the administration of programs for food stamps, parent locator services, public housing, Medicaid, Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility, and supplemental security income, or the Department of Public Welfare of the government of any state, or the National Directory of New Hires established pursuant to section 316(f) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, approved August 22, 1996 (110 Stat. 2209, 42 U.S.C. § 653a) or any District of Columbia State Directory of New Hires established pursuant to § 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or the United States Accounting Office or the Internal Revenue Service of the United States Department of the Treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter. The Director may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection

with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in § 1606(c) of the federal Internal Revenue Code.

* * * * *

(July 24, 1998, D.C. Law 12-132, § 2, 45 DCR 2931; Apr. 20, 1999, D.C. Law 12-241, § 15, 46 DCR 905; Apr. 20, 1999, D.C. Law 12-261, § 4002(b), 46 DCR 3142.)

Effect of amendments.

D.C. Law 12-132, in the third sentence of (f), inserted "or the National Directory of New Hires established pursuant to 42 U.S.C. § 653a or any District of Columbia State Directory of New Hires established pursuant to § 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996."

D.C. Law 12-241 substituted "Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility" for "aid to families with dependent children" in the third sentence of (f).

D.C. Law 12-261 rewrote (b)(1).

Temporary amendment of section. — Section 2 of D.C. Law 12-69, in the third sentence of (f), inserted "or the National Directory of New Hires established pursuant to 42 U.S.C. § 653a or any District of Columbia State Directory of New Hires established pursuant to § 313(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996."

Section 4(b) of D.C. Law 12-69 provides that the act shall expire after 225 days of its having taken effect.

Section 10 of D.C. Law 12-103 amended (f) to read as follows:

"(f) Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this chapter and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner, whether by subpoena or otherwise, revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this chapter with respect thereto. Subject to such restrictions as the Director may by regulation prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or the agency of any state or the federal agency charged with the administration of programs for food stamps, parent locator services and other child and spousal support or paternity establishment services, public housing, Medicaid, aid to families with dependent children, and supplemental security income, or the Department of Public Welfare of the government of any state, or the United States Accounting Office or the Internal Revenue Service of the United States Department of the Treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter. The Director may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in § 1606(c) of the federal Internal Revenue Code."

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 10 of D.C. Law 12-210 amended (f) to read as follows:

"(f) Except as hereinafter otherwise provided, information obtained from any employing unit or individual pursuant to the administration of this chapter and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner, whether by subpoena or otherwise, revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this chapter with respect thereto. Subject to such restrictions as the Director may by regulation prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment com-

pensation law or the maintenance of a system of public employment offices, or the agency of any state or the federal agency charged with the administration of programs for food stamps, parent locator services and other child and spousal support or paternity establishment services, public housing, Medicaid, aid to families with dependent children, and supplemental security income, or the Department of Public Welfare of the government of any state, or the United States Accounting Office or the Internal Revenue Service of the United States Department of the Treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor the Director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter. The Director may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with such request transmit any such report or return to the Comptroller of the Currency of the United States as provided in § 1606(c) of the federal Internal Revenue Code."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

Section 15 of D.C. Law 12-230 substituted "Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibility" for "aid to families with dependent children" in (f).

Section 18(b) of D.C. Law 12-230 provides that the act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the District of Columbia Unemployment Compensation Federal Conformity Emergency Amendment Act of 1997 (D.C. Act 12-192, November 12, 1997, 44 DCR 7102).

For temporary amendment of section, see § 10 of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114).

For temporary amendment of section, see § 10 of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 10 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 10 of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 10 of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provides for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

For temporary amendment of section, see § 15 of the Self-Sufficiency Promotion Emergency Amendment Act of 1998 (D.C. Act 12-372, June 9, 1998, 45 DCR 4270), § 15 of the Self-Sufficiency Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-425, July 31, 1998, 45 DCR 5682), § 15 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-552, December 24, 1998, 46 DCR 521), and § 15 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-19, February 17, 1999, 46 DCR 2492).

Section 17 of D.C. Act 12-552 provides for the retroactive application of the act.

Section 18 of D.C. Act 13-19 provides for the retroactive application of the act.

Legislative history of Law 12-69. — Law 12-69, the "District of Columbia Unemployment Compensation Federal Conformity Temporary Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-414. The Bill was adopted on first and second readings on October 21, 1997, and November 4, 1997, respectively. Signed by the Mayor on November 21, 1997, it was assigned Act No. 12-211 and transmitted to both Houses of Congress for its review. D.C. Law 12-69 became effective on March 20, 1998.

Legislative history of Law 12-103 — Law 12-103, the "Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-365, which was retained by Council. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1997, respectively. Signed by the Mayor on January 30, 1998, it was assigned Act No. 12-279 and transmitted to both House of Congress for its review. D.C. Law 12-103 became effective on May 8, 1999.

Legislative history of Law 12-132. — Law 12-132, the "District of Columbia Unemployment Compensation Federal Conformity Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-415, which

was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on March 3, 1998, and April 7, 1998, respectively. Signed by the Mayor on April 20, 1998, it was assigned Act No. 12-332 and transmitted to both Houses of Congress for its review. D.C. Law 12-132 became effective on July 24, 1998.

Legislative history of Law 12-210. — Law 12-210, the "Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-657. The Bill was adopted on first and second readings on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 16, 1998, it was assigned Act No. 12-497 and transmitted to both Houses of Congress for its review. D.C. Law 12-210 became effective on April 13, 1999.

Legislative history of Law 12-230. — Law 12-230, the "Self-Sufficiency Promotion Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-557. The Bill was adopted on first and second readings on May 5, 1998, and July 30, 1998, respectively. Signed by the Mayor on August 18, 1998, it was assigned Act No. 12-443 and transmitted to both Houses of Congress for its review. D.C. Law 12-230 became effective on April 20, 1999.

Legislative history of Law 12-241. — Law 12-241, the "Self-Sufficiency Promotion Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-558, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 23, 1998, it was assigned Act No. 12-573 and transmitted to both Houses of Congress for its review. D.C. Law 12-241 became effective on April 20, 1999.

Legislative history of Law 12-261. — See note to § 46-108.

References in text.

Section 316(f) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in (F), is codified at 42 U.S.C. § 653. Section 313(b) of that act, also referred to in (f), is codified at 42 U.S.C. § 653a.

§ 46-119. Protection of rights and benefits; child support obligations.

Temporary amendment of section. — Section 2 of D.C. Law 11-266 added a new subsection (d) to read as follows:

"(d)(1) An individual filing a new claim for unemployment compensation benefits shall, at the time of filing the claim, be advised that:

"(A) Unemployment compensation is subject to federal, state, and local income taxes;

"(B) Requirements exist pertaining to estimated tax payments;

"(C) The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment compensation with respect to benefits paid on or after January 1, 1997, at the amount specified in the federal Internal Revenue Code of 1986, 26 U.S.C. § 1, et seq.; and

"(D) The individual shall be permitted to change a previously elected withholding status on 2 occasions during the individual's benefit year.

"(d)(2) Amounts deducted and withheld from unemployment compensation shall remain in the unemployment fund until transferred to the federal taxing authority as a payment of income tax.

"(d)(3) The Director shall follow all procedures specified by the United States Department of Labor and the Internal Revenue Service pertaining to the deducting and withholding of income tax.

"(d)(4) Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments or child support obligations required to be deducted and withheld under this act."

Section 3 of D.C. Law 11-266 provided that the provisions in the act shall be applicable to unemployment compensation benefits paid on or after January 1, 1997.

Section 5(b) of D.C. Law 11-266 provided that this act shall expire after 225 days of its having taken effect.

Emergency act amendments. — For temporary amendment of section, see § 2 of the Unemployment Compensation Federal Conformity Emergency Amendment Act of 1996 (D.C. Act 11-478, January 9, 1997, 44 DCR 624).

Section 3 of D.C. Act 11-478 provides for application of the act.

For temporary amendment of section, see § 2 of the Unemployment Compensation Federal Conformity Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-64, April 3, 1997, 44 DCR 2434).

Sections 3 and 5 of D.C. Act 12-64 provide for the application of the act.

Legislative history of Law 11-266. — Law 11-266, the "Unemployment Compensation Federal Conformity Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-913, which was retained by Council. The Bill was adopted on first and second readings on December 3, 1996, and January 7, 1997, respectively. Signed by the Mayor on January 24, 1997, it was assigned Act No. 11-533 and transmitted to both Houses of Congress for its review. D.C. Law 11-266 became effective on May 21, 1997.